



Office of Temporary and Disability Assistance

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Administrative Directive Memorandum

Section 1

Transmittal:	20-ADM-08
To:	Social Services District Commissioners
Issuing Division/Office:	Employment and Income Support Programs
Date:	August 10, 2020
Subject:	Stewart v. Roberts: Court Decision Impacts Policy in SSL 131-n(1)(a), 18 NYCRR 352.23(b)(2), and 16-ADM-09 "Temporary Assistance Policy: Change in the Vehicle Resource Exemption and Lump Sum Set-Aside"
Suggested Distribution:	Commissioners of Social Services, Temporary Assistance Directors, Staff Development Coordinators, Fair Hearing Staff, DSS Attorneys, Resource and Recovery Staff
Contact Person(s):	Temporary Assistance Bureau at 518-474-9344 or otda.sm.cees.tabureau@otda.ny.gov

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
16-ADM-09 00-ADM-5 14-INF-6 06-INF-21 05-INF-12 03-INF-25 01-INF-11 96-INF-02		352.23 352.29 352.31	SSL 131-a SSL 131-n Chapter 54 of the Laws of 2016		GIS 20 TA/DC044 GIS 16 TA/DC031 GIS 08 TA/DC029

Section 2

I. Summary

As a result of a court order in *Stewart v. Roberts*, effective May 11, 2020, some individuals and households who would previously have been ineligible for Public Assistance, also known as Temporary Assistance (TA), due to ownership of a vehicle with a Fair Market Value (FMV) over a specified level, may now be eligible due to their vehicle's equity value.

Social services districts (districts) were previously advised of this policy change in [GIS 20 TA/DC044](#).

II. Purpose

The purpose of this Administrative Directive Memorandum (ADM) is to provide details of the steps that districts must take to comply with the court order in *Stewart v. Roberts*.

III. Background

Prior policies

Chapter 54 of the Laws of 2016 changed the vehicle resource exemption policy for TA applicants and recipients effective May 16, 2016.

Prior to this change, when TA applicants/recipients owned a vehicle, the district had to determine what purpose the vehicle was used for. If the vehicle was used to seek or retain employment, or for travel to and from work activities, the district had to exempt the first \$9,300 of the vehicle's FMV (or such other higher dollar value as the district elected to adopt). If the vehicle was not used to seek or retain employment, or for travel to and from work activities, the district had to exempt the first \$4,650 of the vehicle's FMV. If the actual FMV of the vehicle was in excess of the exempted amount, the district had to apply the difference against the household's liquid resource limit of \$2,000 or \$3,000 (if a household member is age 60 or older).

Effective May 16, 2016, up to \$10,000 FMV (or such other higher dollar value as the district elected to adopt) for the first vehicle owned was exempted from the resource limit when determining TA eligibility under 18 NYCRR 352.23(b)(2). Whether or not a vehicle is used to seek or retain employment or to travel to and from work activities was no longer a consideration for this policy.

In addition, the vehicle exemption increased at the start of the next two State fiscal years. Beginning April 1, 2017, the exemption amount from the TA resource eligibility test for the first vehicle increased to \$11,000 FMV (or such other higher dollar value as the district elected to adopt). As of April 1, 2018, and thereafter, the exemption amount from the TA resource eligibility test for the first vehicle increased to \$12,000 FMV (or such other higher dollar value as the district may elect to adopt). The vehicle's FMV is determined by using the average trade-in National Automobile Dealer Association (NADA) book value as quoted in the NADA monthly publication. The NADA average trade-in value could be directly accessed at: www.nada.com. However, in those instances where the applicant/recipient could prove that the vehicle was actually worth less than the district's estimate, such proof had to be accepted. The applicant/recipient had to be advised of this right. Acceptable proof included a third-party statement from a reputable dealer. Additional information regarding valuing vehicles, including alternative publications that were used other than the NADA, are found in [GIS 08 TA/DC029](#).

If a household owned more than one vehicle, the remaining vehicle(s) were counted at full equity value against the household's applicable resource limit. The equity value of a vehicle was determined by using the average trade-in value as quoted in the NADA monthly publication less any encumbrances. However, in those instances where the applicant/recipient could prove that the vehicle was actually worth less than the district's estimate, such proof had to be accepted. The applicant/recipient had to be advised of this right. Additional information regarding valuing vehicles, including alternative publications that were used other than the NADA, are found in [GIS 08 TA/DC029](#).

Current policy

On November 20, 2015, petitioner-plaintiff Ms. Stewart began a hybrid Article 78 proceeding, seeking to reverse and annul a Fair Hearing determination and to no longer allow OTDA to consider the FMV of a nonexempt vehicle as an "available" resource, and to instead consider the equity in the vehicle when determining eligibility for TA.

As a result, after multiple motions, hearings, and decisions, the vehicle resource policy has been changed.

On May 11, 2020, OTDA issued [GIS 20 TA/DC044](#) to inform districts that they must now add a step to the application of the existing vehicle resource exemption policy in Social Services Law (SSL) 131-n, 18 NYCRR 352.23(b)(2), and [16-ADM-09](#) "Temporary Assistance Policy: Change in the Vehicle Resource Exemption and Lump Sum Set-Aside" to pending or future TA applications.

IV. Program Implications

Effective May 11, 2020, a vehicle which is not an exempt resource as defined in SSL § 131-n(1)(a) and 18 NYCRR 352.23(b), and in which the owner has minimal or no equity interest, is not an "available" resource which would disqualify the applicant or recipient from the receipt of TA.

"Minimal equity" means that the equity value of the vehicle and the applicant's other resources are less than the (i) \$2,000 general resource exemption or (ii) the \$3,000 general resource exemption if the owner of the motor vehicle is age 60 or over, as set forth in SSL § 131-n.

V. Required Action

A. Determining TA Eligibility

Effective May 11, 2020, when the FMV of the first vehicle exceeds the \$12,000 FMV limit, a second determination must be made regarding the equity value of the vehicle. Those first vehicles not exempted under 18 NYCRR 352.23(b)(2) due to their FMV must be further evaluated under 18 NYCRR 352.23(c) to determine the amount of equity in the vehicle. In such instances, the vehicle's equity value must be applied against the applicable resource limit of \$2,000 or \$3,000 when determining TA eligibility.

If a household owns more than one vehicle, the remaining vehicle(s) are counted at full equity value against the household's applicable resource limit. FMV and equity value continue to be calculated in same manner as described in the "Prior Policies" section of this ADM.

Example 1

A TA applicant has a vehicle with a FMV of \$10,000 with \$8,000 in equity. Since the FMV value is less than \$12,000, the vehicle is exempt when determining eligibility for TA.

Example 2

A TA applicant has a vehicle with a FMV of \$20,000 with \$2,100 in equity. The district elected not to adopt a higher dollar FMV to exempt from the TA resource limit of \$2,000. No one in the household is age 60 or older. Since the FMV is greater than \$12,000, the district must apply the \$2,100 against the \$2,000 TA resource limit. This applicant would be ineligible for TA due to excess resources.

Example 3

A TA applicant who is age 65 has a vehicle with a FMV of \$20,000 with \$2,100 in equity. The district elected not to adopt a higher FMV to exempt from the TA resource limit of \$3,000. Since the FMV is greater than \$12,000, the district must apply the \$2,100 against the \$3,000 resource limit. This applicant would be eligible for TA, if otherwise eligible.

Example 4

A TA applicant owns two vehicles. The first vehicle has a FMV of \$20,000 with \$1,500 in equity. The district elected not to adopt a higher FMV to exempt from the TA resource limit of \$2,000. No one in the household is age 60 or older. Since the FMV is greater than \$12,000, the district must apply the \$1,500 against the TA resource limit. The applicant's second vehicle has an FMV of \$15,000 and an equity value of \$10,000. The district must apply the \$10,000 equity value of the second vehicle against the TA resource limit. In total, \$11,500 would be applied against the TA resource limit. This applicant would be ineligible for TA due to excess resources.

B. Treatment of Overpayments

Effective immediately, districts must terminate any prior TA overpayments or refrain from establishing TA overpayments, discovered in the usual course of business, when such overpayment(s) were or are based solely on a vehicle with a FMV over the vehicle resource limit in SSL § 131-n(1)(a), and there is evidence in the recipient's file that the recipient had minimal or no equity interest in the vehicle. At this time, districts do not need to review all prior TA overpayments. Where there is no evidence of the existence of a loan, note, or other encumbrance, and the potential overpayment is due to the recipient's ownership of a vehicle's FMV, the district must give the recipient the opportunity to present such evidence before making further recovery of said overpayment.

VI. Systems Implications

There are no systems implications.

VII. Effective Date

This ADM is effective immediately.

Issued By:

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Division/Office: Employment and Income Support Programs/Office of Temporary and Disability Assistance