GENERAL INFORMATION SYSTEM
Center for Employment & Economic Supports

November 23, 2010

TO: Commissioners, TA & FS Directors, Investigation Supervisors, Legal Affairs and Fair Hearing Supervisors

FROM: Russell Sykes, Deputy Commissioner, Center for Employment and Economic Supports

SUBJECT: Clark v. Astrue: Temporary Assistance (TA) and Food Stamps (FS) Policy for Probation and Parole Violators

EFFECTIVE DATE: Immediately

CONTACT PERSON: A&QI/Program Integrity: Stephen Bach (518) 402-0117 Stephen.Bach@otda.state.ny.us ; TA Policy: Greg Nolan 1-800-343-8859, extension 4-9101 Greg.Nolan@otda.state.ny.us ; FS Policy: Thomas Hedderman (518) 486-6939 Tom.Hedderman@otda.state.ny.us

The purpose of this General Information System (GIS) message is to notify the social services districts of an adverse federal court decision in the case of Clark, et. al. v. Astrue and the impact it will have on TA and FS parole/probation violator policy.

On March 19, 2010, the United States Court of Appeals for the Second Circuit decided Clark, et. al. v. Astrue. The essence of the decision, as it pertains to applicants for and recipients of FS and TA, is that there be more than a warrant issued on the basis of probable cause or reasonable suspicion to believe that someone is violating a condition of probation or parole: The court held that such warrants are not equivalent to a determination that one is in fact violating a condition of probation or parole. Such warrants merely constitute evidence that one is violating one's probation or parole, but do not establish that such warrants meet the necessary evidentiary standard of establishing that the alleged violation actually exists.

Therefore, districts must not deny or discontinue TA or FS benefits on the basis of a warrant issued on the basis of an **alleged** probation or parole violation because practically all such warrants do not constitute a determination of violation but, instead, are mere allegations of violation.

A more detailed directive regarding this policy will be forthcoming.