

PART 900
SHELTER FOR FAMILIES

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Section 900.1 Scope.

- (a) The provisions of the Part apply to any facility providing shelter and services to homeless families which:
- (1) shelters 10 or more homeless families;
 - (2) is operated by a local social services district or receives payment from such district for the provision of shelter and services to homeless families; and
 - (3) is not a hotel or motel, or a facility which provides families with shelter substantially similar to a house or an apartment, and which includes individual private cooking areas and private bathrooms except as provided in subdivision (b) and (c) of this section.

In addition, this Part applies to any facility requiring an operational plan pursuant to section 352.8(b)(2) of this Title.

- (b) The provisions of this Part shall apply to hotel or motel space used by a social services district, but only if:

- (1) the space is used under a contract or lease with the hotel or motel (including hotels and motels owned or leased by not-for-profit or charitable organizations); and
 - (2) both shelter and tier II services are provided to 10 or more families.
- (c) A local social services district may seek reimbursement pursuant to this Part for the costs of families referred to a facility which provides families with shelter substantially similar to a house or an apartment, including individual private cooking areas and private bathrooms, and which meets or exceeds the requirements of this Part for tier II facilities, as defined in section 900.2, provided that an operational plan has been approved for such facility in accordance with section 900.3 of this Part.

Revisions

(1/12/05 Subdivision (a) amended and effective 1/12/05)

900.2 Definitions.

- (a) Family. For purposes of this Part, a family means two or more persons or a pregnant woman who has no other children living with her who:
- (1) constitute a household in receipt of the Emergency Assistance to Needy Families with Children, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance to Aged, Blind and Disabled Persons, or Supplemental Security Income programs, and any other persons related to a member of such household who are eligible for Emergency Assistance to Families, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance to Adults, or Supplemental Security Income; or
 - (2) although not currently in receipt of Emergency Assistance to Needy Families with Children, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance to Aged, Blind and Disabled Persons or Supplemental Security Income benefits, applies for such benefits and are found eligible for participation in such programs.
- (b) Pregnant woman. For purposes of this Part, a pregnant woman means a woman 16 years of age or older who:
- (1) has been diagnosed by a qualified medical professional as being pregnant;
 - (2) has no children currently residing with her; and
 - (3) is a recipient of Emergency Assistance to Needy Families with Children, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance to

Aged, Blind and Disabled Persons, or Supplemental Security Income benefits or applies for such benefits and is found eligible for participation in such programs.

- (c) Shelter for families. For purposes of this Part, a shelter for families or a family shelter means a congregate shelter for homeless pregnant women, a tier I facility or a tier II facility. These regulations do not require that social services districts place families in facilities regulated by this Part. However, where a district seeks reimbursement for costs attributable to use of such a facility, the facility must comply with the requirements of either a tier I facility, a tier II facility or a congregate shelter for homeless pregnant women.
- (1) Tier I facility. A tier I facility is a facility subject to the provisions of this Part which provides shelter and services to 10 or more homeless families including, at a minimum, a sleeping area, access to three nutritional meals a day, supervision, a preliminary needs determination, and health services in accordance with this Part.
 - (2) Tier II facility. A tier II facility is a facility subject to the provisions of this Part which provides shelter and services to 10 or more homeless families including, at a minimum, private rooms, access to three nutritional meals a day, supervision, assessment services, permanent housing preparation services, recreational services, information and referral services, health services, and child-care services in accordance with this Part.
 - (3) Congregate shelter for homeless pregnant women means a facility providing shelter to 10 or more homeless pregnant women including, at a minimum, a sleeping area, three nutritional meals per day, supervision, permanent housing preparation services, health services, prenatal services, and arranging for the provision of postnatal services in accordance with this Part.

Revisions

(Section amended 1/15/92.)

(Section amended 9/10/97.)

(Section amended 12/02/99.)

900.3 Operational plan.

- (a) (1) A social services district may be reimbursed for costs incurred for shelter and services provided to homeless families in tier I and tier II facilities and congregate shelters for homeless pregnant women where such facilities are operated in accordance with the requirements of this Part and where such facilities are operated pursuant to operational plans which have been approved by the department. A separate operational plan must be submitted by the social services district for each tier I and tier II facility for which the district seeks reimbursement.
- (2) Prior to the submission of an operational plan for a shelter for families, a social

services district must obtain the preliminary approval of the department for the establishment of such facility. For acquisition, construction or operation of a new facility, a social services district must submit a request for preliminary approval prior to entering into any binding commitments for the acquisition of the property, for construction, for financing or for operation of the facility. Preliminary approval to establish a facility will be granted only to a social services district which has submitted an overall plan for developing transitional and permanent housing for homeless families and satisfactorily demonstrates and documents, on forms and in a manner prescribed by the department:

- (i) that there exists sufficient need for the establishment of the facility, including but not limited to a description of the number of homeless families in the district, the vacancy rate for low income housing in the district, the geographic location of the shelter and the type of population to be served by the shelter;
 - (ii) that the costs of development, including, but not limited to, acquisition, construction/rehabilitation, professional fees, including legal and architectural fees, and financing costs, are reasonable and consistent with the standards developed by the department for such costs;
 - (iii) that the proposed facility will be converted at reasonable cost to permanent housing or another use approved by the commissioner for a reasonable time period to be determined by the commissioner;
 - (iv) how the proposed facility will be included in the district's overall plan for developing permanent housing for homeless families including a description of the permanent housing sources available for families residing in the proposed facility, and a demonstration that sufficient permanent housing resources will be made available or are in development to accommodate anticipated placements from the proposed facility, that linkages have been established to ensure the availability of such permanent housing resources, and that the number of transitional units is coordinated with the availability of permanent housing to ensure lengths of stay do not exceed those specified in section 900.15(c)(3) of this Part; and
 - (v) how the district will meet occupancy rates as established by the department during the course of the facility's fiscal year. The minimum occupancy rate assigned to a facility by the department may not be less than 85 percent, and will be assigned depending on the number of homeless families living in the social services district and the capacity of the facility.
- (3) A social services district's failure to submit a timely and complete application for

the preliminary approval of the establishment of a shelter for families and to obtain such approval from the department, including but not limited to approval of the costs of the development of the facility, consistent with the standards developed by the department, will result in the denial of all or part of any available federal or State reimbursement for the operation of the facility under this Part.

- (b) (1) For shelters for families, the operational plan must provide all of the following information concerning the facility:
 - (i) name and location;
 - (ii) name and address of the entity which will operate the facility;
 - (iii) names, addresses and occupations of the members of the board of directors, if the operator is a corporation;
 - (iv) name and address of the owner of the land and premises, if other than the operator;
 - (v) financial resources and sources of future revenue of the facility;
 - (vi) a financial statement for the shelter's most recently completed fiscal year, if any, and a proposed one year budget, including estimated income and expenditures, on forms and in a manner prescribed by the department. Such proposed budget must set forth the amount reasonable and necessary to operate and maintain the shelter, as required pursuant to section 900.16 of this Part;
 - (vii) admission procedures including arrangements for and hours during which preliminary health examinations will be performed and procedures for referral of persons not admitted during nighttime hours because such persons exhibit symptoms of a generalized systemic communicable disease or a readily communicable local infection;
 - (viii) procedures for ensuring access by legal representatives and legal counsel to their clients who are residents of the facility;
 - (ix) in tier I and tier II facilities, procedures for providing needed care, services and support of children and families consistent with applicable regulations including but not limited to, sections 430.9 and 430.10 of this Title;
 - (x) in tier I and tier II facilities, arrangements for ensuring school attendance by school-age children residing in the facility, including

any necessary transportation arrangements;

- (xi) plan for health services, as defined in section 900.10 of this Part including written evidence of an arrangement with a fully accredited medical institution or clinic for the referral of resident families for emergency treatment. In addition, if medical supplies are to be stored at the facility or refrigeration is to be provided for personal medical supplies of residents, the arrangements for safekeeping and refrigeration of such medical supplies must be specified;
- (xii) procedures for assisting residents in making application for income entitlements or public benefits such as public assistance, medical assistance, food stamps, Supplemental Security Income, title XX or child welfare or unemployment benefits;
- (xiii) facility staffing schedules and a description of each position, including job duties;
- (xiv) plan for staff training including training concerning the emergency and disaster plan for the facility and fire safety;
- (xv) bathroom arrangements, including the intended number of toilets, sinks, showers and bathtubs to be provided for each sex and, where appropriate, the facility's provision for the bathing and changing of infants and young children;
- (xvi) food service arrangements. If a food service provider is used, written evidence of such arrangement must be included;
- (xvii) physical structure, including land, buildings and equipment, certificate of occupancy and building descriptions including type of construction, planned renovations, and room layouts with dimensions;
- (xviii) fire safety measures and emergency and disaster plan required pursuant to section 900.11 of this Part;
- (xix) resident capacity;
- (xx) resident rules;
- (xxi) procedures for holding hearings on involuntary discharges of families from the facility and information as to when and how a family or family member who has been involuntarily discharged may request a fair hearing held under Part 358 of this Title to review the discharge;

- (xxii) procedures for handling resident complaints;
- (xxiii) an application for, a copy of, or a request to amend an operating certificate, license or permit issued by the department, if a program requiring a valid operating certificate, license or permit is or will be operated in the same building or on the same premises as the shelter for families;
- (xxiv) procedures and environmental safeguards designed to ensure the well-being and safety of residents if the family shelter facility is located in the same building or on the same premises where another program is or will be operated in addition to the shelter for families programs; such procedures must indicate the circumstances under which common staff or joint services will be utilized; and
- (xxv) procedures for safeguarding the confidentiality of medical records concerning residents of the shelter;
- (xxvi) procedures for informing residents of their rights as residents and a listing of said rights;
- (xxvii) facility leave and absence policy;
- (xxviii) a description of the community services available to the shelter population including public transportation, parks and recreation areas, medical and mental health services, restaurants and stores. A map must be included showing the location of these services in relation to the shelter;
- (xxix) a description of waiver requests prepared pursuant to section 900.4 of this Part, including time frames for implementation;
- (xxx) procedures for advising families or family members of the conduct or activities for which temporary housing assistance may be discontinued as provided in section 352.35 of this Title;
- (xxxi) procedures which describe the facility's responsibilities in relation to the social services district's requirements for discontinuing temporary housing assistance, including notification to the social services district of acts which may be grounds for the discontinuance of temporary housing assistance; and
- (xxxii) such other information as may be requested by the department.

(2) In addition to the requirements contained in paragraph (1) of this subdivision, the

operational plan for tier I facilities must contain the procedures for making preliminary needs determinations, as required in section 900.10 of this Part.

- (3) In addition to the requirements contained in paragraph (1) of this subdivision, the operational plan for tier II facilities must contain all of the following information concerning the facility:
 - (i) child care arrangements as defined in section 900.10 of this Part for enabling parents or caretaker relatives to seek employment and/or permanent housing, or to attend school or training; if child care will be provided offsite, written evidence of an arrangement with a day care center or family day care home must be included;
 - (ii) plan for assessment services, as defined in section 900.10 of this Part;
 - (iii) plan for providing preparation for permanent housing, as defined in section 900.10 of this Part; and
 - (iv) plan for recreational services, as defined in section 900.10 of this Part.
- (4) In addition to the requirements contained in paragraph (1) of this subdivision, the operational plan for congregate shelters for homeless pregnant women must contain the following information concerning the facility.
 - (i) procedures for the provision of casework services described in section 900.10 of this Part;
 - (ii) procedures for providing preparation for permanent housing as described in section 900.10 of this Part; and
 - (iii) procedures for the provision of health services as described in section 900.10 of this Part.
- (d)
 - (1) The local social services district must submit a proposed operational plan in writing to the department no less than 45 days before planned use of a facility as a shelter for families.
 - (2) An operational plan will be approved only where it is established that the facility will meet, and will be operated in accordance with, all applicable provisions of law and the requirements of this Part.
 - (3) If a program other than a shelter for families is or will be operating in the same building or on the same premises as a shelter for families and such program requires a department-approved operating certificate, license or permit, an

operational plan for the shelter for families will only be approved if there is a valid operating certificate, license or permit for such other program.

- (4) (i) The department must advise the social services district in writing of its approval or disapproval of a proposed operational plan within 45 days of receipt of the plan except as provided in subparagraphs (ii), and (iii) of this paragraph.
- (ii) Notwithstanding subparagraph (i) of this paragraph, if a shelter for families is located in the same building or on the same premises as a program requiring an operating certificate, license or permit issued by the department and if such certificate, license or permit has not been issued at the time the proposed operational plan for the shelter for families is submitted, the department will not approve the operational plan until after such certificate, license or permit has been issued. In no event may the department delay a decision on an operational plan beyond 45 days after the issuance of the operating certificate, license or permit.
- (iii) Notwithstanding subparagraph (i) of this paragraph, if the department determines that additional information is required before it can approve or disapprove the proposed operational plan, the department within 30 days of receiving the proposed operational plan may request that the local social services district submit additional information within 30 days of the request for such additional information. The department must advise the social services district in writing within 30 days of receipt of the additional information of its approval or disapproval of the operational plan.
- (iv) Notwithstanding subparagraphs (i), (ii), and (iii) of this paragraph, a social services district may request that the department give limited approval of an operational plan. Limited approval will be withdrawn by the department if the facility's operational plan is not fully approved by the department within one year of granting limited approval or a lesser time period as specified by the department. If limited approval is withdrawn, the social services district may not continue to claim reimbursement for the costs associated with the operation of the facility. The department may give limited approval if the operational plan meets the following criteria:
 - (a) the department has been provided with information that the facility is in compliance with all applicable State and local laws, regulations and codes, as specified in section 900.5(a) of this Part;

- (b) the facility's procedures for the admission of residents and transfer and discharge of residents are in compliance with the requirements set forth in sections 900.6, 900.7 and 900.8 of this Part;
 - (c) the facility's plans for health services, supervision and food service arrangements are in compliance with the requirements set forth in sections 900.10, 900.11 and 900.13 of this Part;
 - (d) the facility's rules setting forth resident's rights and responsibilities while residing in the facility are in compliance with the requirements set forth in section 900.9 of this Part; and
 - (e) the plan contains on forms and in the manner prescribed by the department, a financial statement for the shelter's most recently completed fiscal year, if any, and a proposed one year budget, including estimated income and expenditures. However, if this information is not provided, the department may, subject to the approval of the Director of the Division of the Budget, establish an interim per diem rate. State reimbursement may not exceed this rate until full approval of the operational plan is granted.
- (e) An operational plan approved by the department will remain in effect for a maximum period of five years. An operational plan for a shelter for families located in the same building or on the same premises as a program requiring an operating certificate, license or permit issued by the department, however, will be considered approved only for so long as such other program has a valid operating certificate, license or permit but in no case longer than five years. No later than 60 days prior to the expiration of an operational plan, the social services district must submit on forms and in the manner prescribed by the department, a request to renew the approval of the operational plan. Such request must include appropriate financial data; any proposed new, or changes to existing, contracts; any proposed revisions to leases or rental agreements; documentation that the facility is in compliance with applicable State and local laws, regulations, and codes as specified in section 900.5(a) of this Part; and information regarding any other changes being proposed to the current operational plan.

The social services district may request an extension of the 60 day period in order to submit appropriate financial data, and the department may grant one extension, not to exceed six months.

If an extension is granted, the department may, subject to the approval of the director of the budget, either continue reimbursement at the approved rate or establish an interim per diem rate. State reimbursement may not exceed these per diem rates, and will continue

until such time as either the appropriate financial data is submitted and the operational plan is approved, or operational plan approval by the department is withdrawn.

- (f) Proposed revisions to an approved operational plan must be submitted by the local social services district to the department for approval prior to implementation. An operational plan for a shelter for families located in the same building or on the same premises as a program requiring an operating certificate, license or permit issued by the department must be revised if the operation of such other program ceases or if there is a change in the operating certificate, license or permit for such program. Proposed revisions are subject to the requirements of subdivision (d) of this section.
- (g) For costs incurred by a facility that begins operation after the effective date of this Part, reimbursement may be available from the date the social services district submits its proposed operational plan provided:
 - (1) the facility is operational at the time the plan is submitted or within 45 days after the date of submittal;
 - (2) that if the department has requested additional information, the social services district submits such information within 30 days; and
 - (3) the operational plan is fully approved no later than one year from the date the social services district submits its proposed operational plan or a lesser time period as specified by the department.

Revisions

(Section amended 1/15/92.)

(10/16/92 subd. (a) is amended; subd. (c), para. (1) is amended.)

(04/21/93 subd. (b), para. (1), subpara. (xxi) amended.)

(9/10/97 section amended.)

(12/02/99 section amended.)

900.4 Waivers.

- (a) All regulations contained in this Part apply to all facilities providing shelter and services to homeless families for which a social services district seeks reimbursement under this Part, unless a waiver request by the social services district is submitted to an approved in writing by the department. A waiver request may be approved at the discretion of the department for good cause shown.
- (b) In approving a waiver request the department may require that additional procedures be implemented to protect residents' health and safety.
- (c) All waiver requests approved by the Department pursuant to this section will remain in effect only for so long as the department determines appropriate. From time to time, as appropriate, the department will review waivers to determine whether they should be

continued, provided, however, that where a waiver of paragraphs three or four of section 900.15(c) or subdivision (f) of section 900.16 of this Part has been granted, at least every six months the department will review whether the waiver should be continued.

Revisions

(10/16/92 subds. (a) and (c) were amended.)

(04/28/93 subd. (c) amended.)

(09/10/97 subd. (a) amended.)

900.5 Compliance with State and local laws, regulations and codes.

- (a) Facilities providing shelter for families for which a social services district seeks reimbursement must be operated in accordance with all applicable State and local laws, regulations and codes relating to the following:
 - (1) building and construction of physical plants;
 - (2) fire prevention and fire protection;
 - (3) plumbing and water supply;
 - (4) heating and electrical systems;
 - (5) kitchen and food service;
 - (6) sanitation and maintenance; and
 - (7) health and safety.
- (b) All inspection certificates and other documents required by State and local authorities for buildings, grounds and equipment, including a copy of the operational plan, must be current, maintained on the premises, and available for departmental review and public inspection at all times.

Revisions

(Section amended 1/15/92.)

900.6 Admissions.

- (a) Any homeless family which applies to a social services district may be considered for referral to a tier I or tier II facility. Any homeless pregnant woman, 16 years of age or older, who applies to a social services district, may be considered for referral to a congregate shelter for homeless pregnant women.
- (b) Local social services districts will not be reimbursed for the costs of providing shelter care and services to families referred to a facility which does not have an approved operational plan.
- (c) To the extent possible, referrals must be made to facilities whose location will minimize the dislocation of the family from the family's community and schools.

- (d) Social services districts may not refer a family which includes a pregnant woman or an infant under six months of age to a tier I shelter.
- (e) Social services districts may not refer to a tier I shelter a family which includes a member having a medical, physical or other special need which cannot be adequately served in the facility.
- (f) A district may not refer to a family shelter any family containing a member who:
 - (1) has a mental or physical condition that makes such placement inappropriate or otherwise may cause danger to him/herself or others;
 - (2) is likely to substantially interfere with the health, safety, welfare or care of other residents;
 - (3) is in need of a level of medical, mental health, nursing care or other assistance that cannot be rendered safely and effectively by the facility, or that cannot be reasonably provided by the facility through the assistance of other community resources; or
 - (4) has a generalized systemic communicable disease or a readily communicable local infection which cannot be properly isolated and quarantined in the facility.
- (g) When a family cannot be referred to a facility for any of the reasons set forth in subdivision (f) of this section, the local social services district must ensure that action is taken which is appropriate to the health, safety and needs of the family member and the family. Such action may include referral to appropriate medical services, child welfare agency, adult protective or law enforcement agency, or similar entity. All reasonable efforts must be made to keep the family intact. No such alternate referral may be made unless the family has been advised of the reasons and informed of its placement options for remaining together as a family.
- (h)
 - (1) All applicants for admission to a facility must have a preliminary health examination completed preferably at or before the time of intake, but in no case later than 24 hours after admission to the facility. Such examination must be performed by qualified medical personnel to ascertain the general health of the family and/or the presence of communicable diseases, and to verify pregnancy. In no event may a person exhibiting symptoms of a generalized systemic communicable disease or a readily communicable local infection be admitted, unless the person can be properly isolated and quarantined in the facility.
 - (2) Notwithstanding paragraph (1) of this subdivision, a new preliminary health examination is not required when a family moves from one temporary housing placement to another temporary housing placement while staying in the social services district's emergency housing system, if the original preliminary health examination is less than one year old and the preliminary health examination and

relevant health and medical information is sent to the receiving facility at or prior to the family's arrival. Sending facilities or social services districts are required to send relevant health and medical information to receiving facilities, including any recommendation for additional health screening due to a family member's medical condition, promptly upon the family's arrival, but in no instance later than 72 hours after the family's arrival.

- (3) Additional screening and referral for physical examination, laboratory and tuberculin tests, inoculations and other appropriate treatment must be provided at the request of the medical personnel performing the preliminary health examination or at the request of the family.

Revisions

(09/10/97 section amended.)

900.7 Limitation on stays in tier I facilities.

- (a) In no event may a family be kept in a tier I facility for more than 21 days, unless the conditions set forth in subdivision (b) of this section are met. On or before the 21st day, a family residing in a tier I facility must be referred to permanent housing, to a tier II facility, or to a hotel or motel accommodation regulated in accordance with section 352.3(e) through (h) of this Title. Such referral must be made to the best available setting, based on the availability of space and the needs of the family as determined by the local social services district. Any referral must be made in light of the community ties and educational needs of the family and the children in the family. Once such a referral has been made, a family cannot be subsequently referred to a tier I facility except under the following circumstances:
 - (1) the family moved to permanent housing but has returned to the shelter system;
 - (2) the family's hotel/motel placement was terminated by the local district in accordance with the procedures established by and upon the grounds established by the district, the procedures and grounds have been approved by the department and the family has returned to the shelter system; provided, however, a family may not be subsequently referred to a tier I facility from a hotel/motel when the family's residency at the hotel/motel ends because the hotel/motel accepted the family for a time limited period;
 - (3) the family consists of a childless couple which has requested to remain together and which was a legally married couple or a couple who were residing together as a household prior to and at the time they became homeless; or
 - (4) in accordance with section 900.8 of this Part.
- (b) A family may be housed in a tier I facility for more than 21 days only if:

- (1) the family consists of a childless couple which has requested to remain together and which was a legally married couple or a couple who were residing together as a household prior to and at the time they became homeless; or
 - (2) the family was placed in a tier I facility after being involuntarily transferred from a tier II facility in accordance with the terms of section 900.8 of this Part; or
 - (3) the family was placed in a tier I facility after their hotel status was terminated by the local district in accordance with procedures established by and upon the grounds established by the district and such procedures and grounds have been approved by the department; or
 - (4) prior to the 21st day the district has certified to the department in writing that no space is available in permanent housing, in a tier II facility or in a hotel or motel meeting the requirements of section 352.3(e) through (h) of this Title. The district must use its best efforts to obtain a placement for the family, and document these efforts in the case file kept for the family. In addition, the family must be provided with the services specified in section 900.10(c) of this Part which such family would have received in a tier II facility if the family could have been placed in such a facility. The local district shall document the provision of such services in the family's case file; and
 - (5) where a family is kept in a tier I facility for more than 21 days in accordance with paragraph (4) of this subdivision, the maximum reimbursement for such family is the rate established for a placement in a hotel or motel.
- (c) A family which has left a tier I facility on its own for other housing and returns to the shelter system may be referred to a tier I facility if the family has never been referred from a tier I facility to permanent housing, to a tier II facility or to a hotel or motel accommodation regulated in accordance with section 352.3(e) through (h) of this Title.

900.8 Transfer and discharge from shelters for families.

- (a) Involuntary discharge.
- (1) Upon entry to a facility, each family must be advised in writing of the rules of the facility and residents' rights and obligations while residing in the facility. Each family must be advised in writing of the consequences of failing to comply with the rules of the facility, including discharge from the facility and, in certain circumstances, discontinuance of temporary housing assistance.
 - (2) A facility operator may discharge a family or family member involuntarily from a tier I or tier II facility when the family or family member engages in the following types of conduct or activities:

- (i) acts which endanger the health or safety of such person or others;
 - (ii) acts which substantially and repeatedly interfere with the orderly operation of the facility, including violations of the facility rules;
 - (iii) unreasonably fails to actively seek or follow up on referrals to housing other than temporary housing;
 - (iv) unreasonably fails to cooperate in developing, carrying out and completing a service or an independent living plan as required by the social services district;
 - (v) possesses or sells drugs illegally;
 - (vi) fails to apply for public assistance benefits within two working days of admission to the facility or to reapply for public assistance benefits within two working days if the family's or family member's case is closed while residing in the facility;
 - (vii) fails to pay the shelter provider the family's share of the cost of temporary housing in the amount determined by the social services district;
 - (viii) fails to constitute a family as defined in section 900.2 of this Part and cannot reasonably be expected to constitute a family within 30 days of the date it is determined the resident(s) does not constitute a family;
 - (ix) is absent from the facility for more than 48 hours without having complied with the facility's rules concerning absences;
 - (x) fails to comply with public assistance requirements including, but not limited to, those set forth in section 352.35(e) of this Title, where the failure to comply results in discontinuance of public assistance benefits;
 - (xi) steals or deliberately destroys property belonging to another resident, staff, shelter visitors, or deliberately destroys shelter property; or
 - (xii) is not longer medically appropriate to reside in the facility.
- (3) Notwithstanding paragraph (2) of this subdivision, in instances where a family's or family member's temporary housing assistance has been discontinued pursuant to section 352.35 of this Title, the facility operator must discharge the family or family member as directed by the social services district.

- (4) If the family or family member is currently residing in a tier I or tier II facility, and the family's or family member's temporary housing assistance has not been discontinued pursuant to section 352.35 of this Title, the family or family member may be involuntarily discharged to another tier II facility or similar facility, a tier I facility as appropriate or, if family shelter care is no longer appropriate, to other housing.
- (5) A decision to discharge a family or family member involuntarily may be challenged in a pre-discharge hearing conducted by the social services district, or the social services district or its designee, in accordance with procedures contained in the operational plan approved by the office, unless the family's or family member's temporary housing assistance has been discontinued pursuant to section 352.35 of this Title. If the social services district does not directly operate the tier II facility, it may designate the operator of the facility to conduct such discharge hearings. Where the social services district so designates the operator, it is the operator's responsibility to ensure that such hearings are conducted by an impartial adjudicator. The adjudicator may not be staff or an employee of the facility in which the family or family member resided when the notice of discharge was issued. The adjudicator must not have been a party to the decision to discharge the family or family member, or be subordinate to the person(s) who made the decision. The social services district must monitor hearings conducted by adjudicators, pursuant to procedures which have been submitted to, and approved by, the office. If a pre-discharge hearing is requested, and the family's or family member's temporary housing assistance has not been discontinued pursuant to section 352.35 of this Title, the family or family member must be allowed to remain in a tier II facility pending the issuance of the decision after hearing. All decisions must be in writing on a form prescribed by the office.
- (6) Unless the family's or family member's temporary housing assistance has been discontinued pursuant to section 352.35 of this Title no family or family member may be involuntarily discharged until the following procedures are observed:
 - (i) for families residing in tier II facilities, the family has been given written notice on a form prescribed by the office of the discharge decision and of the reasons therefore; such notice must include a statement that the family or family member has a right to a pre-discharge hearing conducted by the social services district, or the social services district's designee. If any such hearing is requested, such notice must include a statement that the family or family member has the right to remain in the facility pending the issuance of the decision after hearing. Such notice must include a statement that if the family or family member participates in such a hearing and receives an adverse hearing decision, that the family or family member must leave the facility, but may request a fair hearing held under Part 358 of this Title to challenge the discharge decision and a

statement describing how such a fair hearing may be obtained;

- (ii) the family's need for protective services for adults, preventive services or protective services for children, or for other social services has been evaluated and an appropriate referral has been made if necessary; and
 - (iii) if criminal activity may have occurred, the appropriate law enforcement agency has been contacted;
 - (iv) if the family member to be involuntarily discharged is a minor child or the sole parent or caretaker relative of a child under the age of 18, provision for care, services, and support for the minor child and the family has been made consistent with the needs of the child and family; such care, services, and support must be provided in a manner consistent with current statute and regulation including but not limited to sections 430.9 (appropriate provision of mandated preventive services) and 430.10 (necessity of placement) of this Title.
- (7) A family or family member who has been involuntarily discharged from a tier II facility and who has requested and participated in a hearing as described in paragraph (6) of this subdivision may, after such discharge, request a fair hearing from the office under Part 358 of this Title to review the decision to discharge, unless the family's or family member's temporary housing assistance has been discontinued pursuant to section 352.35 of this Title. If the family or family member's temporary housing assistance has been discontinued pursuant to section 352.35 of this Title, such family or family member may request a fair hearing in accordance with subdivision (h) of section 352.35 of this Title.
- (8) A family or family member who has requested a fair hearing as described in paragraph (7) of this subdivision and who is found by the fair hearing decision to have been wrongfully discharged from the facility must be offered an opportunity to return to the tier II facility from which the family or family member was discharged as soon as an appropriate vacancy becomes available. No such opportunity may be offered if the family or family member no longer meets the requirements for residency in a tier II facility as set forth in section 900.6(f) of this Part or if the family or family member has obtained permanent housing.
- (9) A family or family member may be involuntarily discharged from a tier II facility without being provided a hearing as described in paragraphs (6) and (7) of this subdivision to review the discharge if the basis for the discharge is that the family or family member is no longer medically appropriate to reside in the facility, as determined by qualified medical personnel, the family or family member's temporary housing assistance has been discontinued pursuant to the provisions of section 352.35 of this Title or, the family or family member has been absent from

the facility for more than 48 hours without having complied with the facility's rules concerning absences and has not been readmitted to the facility. The 48 hour period begins at the start of the period of the unauthorized absence. A written record of all unauthorized absences must be maintained by the facility. A family or family member who is being discharged without being provided a hearing pursuant to paragraph (6) of this subdivision must be provided, in writing, with the reason for discharge.

- (10) After receiving notification from the social services district of its intention to discontinue temporary housing assistance pursuant to the provisions of section 352.35 of this Title, a family or family member may not be involuntarily discharged pursuant to the provisions of this subdivision without the approval of the social services district.
- (b) Transfers from tier II facilities. (1) A family or family member residing in a tier II facility may be transferred to another tier II facility or to a hotel or motel regulated in accordance with section 352.3(e) through (h) of this Title only if one of the following conditions exists:
- (i) the family has requested such a transfer and provided a reason and justification for their request, and appropriate space is available for the family. Such transfer is at the discretion of the local social services district;
 - (ii) a family member has a systemic communicable disease, illness, or readily communicable local infection which cannot be properly isolated or quarantined in the family's current tier II residence which necessitates a transfer to a facility which has been designed in whole or in part to serve such conditions; or
 - (iii) a family member has a medical, physical, or other special need which cannot be adequately served in the family's current tier II facility.
- (2) Except as provided in this section, families may not be transferred from a tier II facility except to a permanent housing arrangement.
- (c) (1) Whenever a family member is to be transferred or discharged, the social services district must ensure that the action to be taken is appropriate to the health, safety, and needs of that family member and the family. Such action may include referral to appropriate medical services, child welfare agency, adult protective or law enforcement agency, or similar entity. All reasonable efforts must be made to keep the family intact.
- (2) Prior to any transfer or discharge of a family member pursuant to subdivision (a)

or (b) of this section other than a discharge based upon a discontinuance of temporary housing assistance as provided for in section 352.35 of this Title, social services district staff must advise the remaining family members of all housing options available to them. Such options may include:

- (i) transfer of all or part of the family along with the family member;
- (ii) continued housing of the remaining family members in their current facility, provided that the remaining family members constitute a family as defined in this Part; or
- (iii) placement in other types of facilities.

(d) If, as a result of the transfer or discharge of a family member from a facility, the family members remaining in the facility no longer constitute a family as defined in this Part, the local social services district must make appropriate arrangements for those persons to be housed elsewhere in accordance with subdivision (c) of this section and with all other applicable provisions of this Title, unless such discharge is based on a discontinuance of temporary housing assistance pursuant to section 352.35 of this Title.

(e) Involuntary discharge from congregate shelters for homeless pregnant women.

(1) When a resident engages in conduct which endangers the health or safety of such resident or others, repeatedly behaves in a manner which substantially interferes with the orderly operation of the shelter or is diagnosed as having a generalized systemic communicable disease or a readily communicable local infection, the social services district must discharge the resident to an appropriate alternate living arrangement, unless such resident's temporary housing assistance is discontinued pursuant to section 352.35 of this Title. Such arrangements are defined for the purposes of this Part as being permanent housing, a hotel/motel, a tier II facility or other similar facility. A resident also may be discharged to another congregate shelter for homeless pregnant women, unless the basis for discharge is that the resident has been diagnosed as having a generalized systemic communicable disease or a readily communicable local infection.

(2) No resident may be discharged involuntarily until the following procedures have been followed:

- (i) the resident has been given written notice of the discharge and the reasons for the discharge. Additionally, residents who are to be discharged for endangering others or substantially interfering with the orderly operation of the shelter must be notified that they have the right to request a facility hearing to challenge the discharge and if a hearing is requested, must be advised of the right to remain in the shelter pending the issuance of the decision after the hearing;

- (ii) a resident's need for protective services for adults has been evaluated, and an appropriate referral has been made, if necessary; and
 - (iii) if criminal activity may have occurred, the appropriate law enforcement agency has been contacted.
- (3) The district must maintain a written record of all involuntary discharges.
- (f) Automatic discharge from congregate shelters for homeless pregnant women. A resident will be deemed to be automatically discharged:
- (1) when the resident gives birth to her child;
 - (2) the pregnancy is terminated; or
 - (3) when the resident leaves the shelter prior to the completion or termination of her pregnancy.

Revisions

(04/21/93 subd. (a), intro language amended; subd. (a), para. (2) repealed and a new para. (2) added; subd. (a), paras. (3) & (4) are renumb. (4) & (5) and a new (3) is added; subd. (a), para. (4) amended; subd. (a), para. (5), subpara. (i) amended; subd. (a), paras. (6), (7) & (8) are added.)
 (06/25/93 subd. (a), para. (4) amended.)
 (08/19/93 subd. (a), para. (4) amended.)
 (10/18/93 subd. (a), para. (4) amended.)
 (12/17/93 subd. (a), para. (4) amended.)
 (03/31/94 subd. (a), para. (4) amended; subd. (a), para. (5), subpara. (i) amended.)
 (09/10/97 subd. (a) amended; subds. (e) & (f) are repealed and new subds. (e) & (f) are added.)
 (12/02/99 section amended.)

900.9 Resident obligations/rights.

- (a) The facility must promulgate reasonable resident rules governing day-to-day life and activities in the facility and post these rules in a location accessible to residents and visitors.
- (b) Upon admission, families must be provided with a copy of the facility rules setting forth their rights and responsibilities while residing in the facility.
- (c) At a minimum, the facility must afford each resident the following rights and protections which will be set forth in the resident rules:
 - (1) the right to remain in the facility and not to be involuntarily transferred or discharged except as provided in this Part;
 - (2) the right to receive visitors in designated areas of the facility during reasonable hours as specified in the resident rules;

- (3) the right to exercise one's civil rights;
 - (4) the right to religious liberty;
 - (5) the right to have private written and verbal communications including the right to meet with legal representatives and legal counsel. The resident rules must not restrict access by legal representatives and legal counsel to any areas of the facility. Any requirements as to prior notice, hours of access, or access to private family areas shall be set forth in the resident rules;
 - (6) the right to present grievances on one's own behalf, or on behalf of other residents, to the operator or operator's designee and/or to the local social services district without fear of reprisal;
 - (7) the right to manage one's own financial affairs;
 - (8) the right to confidential treatment of personal, social, financial and medical records;
 - (9) the right to receive courteous, fair and respectful care and treatment;
 - (10) the right to be free from restraint or confinement;
 - (11) the right to receive and send mail or any other correspondence without interception or interference; and
 - (12) the right to leave and return to the facility and grounds at reasonable hours in accordance with the rules of the facility.
- (d) The resident rules must inform families of the obligations upon which their continued residence in the shelter depends. Such rules must clearly set forth families' obligations concerning compliance with the resident rules and the sanctions for noncompliance. At a minimum, rules concerning the following family obligations must be set forth in the resident rules:
- (1) applying for Emergency Assistance to Needy Families with Children, Family Assistance, Safety Net Assistance, Veteran Assistance, Emergency Assistance to Aged, Blind or Disabled Persons or Supplemental Security Income, whichever is applicable, if the family is not currently in receipt of benefits under such programs and an application for such benefits is not pending;
 - (2) developing, carrying out and completing a service or independent living plan with facility or district staff to achieve permanent housing and reviewing such plan with facility staff at least biweekly;

- (3) seeking and accepting permanent housing;
- (4) seeking and accepting employment;
- (5) ensuring school attendance of school-age children in their family;
- (6) supervising minor family members;
- (7) utilizing child care provided through the facility when such care is necessary to enable the parent or caretaker relative to seek employment and/or permanent housing or to attend school or training;
- (8) maintaining the cleanliness of their own sleeping and living areas, including bathroom and cooking areas, if any, as well as laundering and changing linens and towels regularly if required by facility staff;
- (9) using communal areas appropriately;
- (10) notifying facility staff of any illnesses of each member of the family;
- (11) for residents in congregate shelters for homeless pregnant women, participating in a prenatal care services program;
- (12) cooperating with the district and facility staff in an assessment of the family's housing and housing-related public assistance and care needs;
- (13) refraining from engaging in acts which endanger the health and safety of oneself or others, or which substantially interfere with the orderly operation of the facility;
- (14) complying with all public assistance requirements that apply to the family; and
- (15) paying to the facility the family's share of the cost of temporary housing in the amount determined by the district.

Revisions

(09/10/97 subd. (d), paras. (9) & (10) are amended and a new para. (11) is added.)
(12/02/99 section amended.)

900.10 Resident services.

- (a) All facilities.
 - (1) In all facilities, families must be provided with services which include at a

minimum: sleeping area, access to three meals a day, supervision, and health services. In addition, facilities must assist residents in making application for income entitlements or public benefits such as public assistance, medical assistance, food stamps, Supplemental Security Income, title XX or child welfare or unemployment benefits. Procedures must be developed for each facility which will allow residents of the facility to apply for benefits at the nearest income maintenance center or social services district office.

- (2) Health services.
 - (i) Facilities must have an established relationship with a fully accredited medical institution or clinic for the referral of families for emergency treatment. Facilities must assist families to access medical services for initial examinations and treatment for illness and disease.
 - (ii) Family members with minor communicable diseases, or who have minor localized infections, must be properly isolated and quarantined if allowed to remain in the facility.
 - (iii) Family members with a generalized systemic communicable disease, or a readily communicable local infection which cannot be properly isolated and quarantined in the facility must be transferred to an appropriate medical facility or to another shelter facility which is designed to accommodate such a condition.
- (b) Tier I facilities. In addition to the resident services provided in accordance with subdivision (a) of this section, a tier I facility must:
 - (1) complete a written preliminary needs determination for each family within two days of admission. Facility staff and the family must discuss the immediate needs of the family, including any benefits or services which if immediately provided to the family would facilitate their return to permanent housing in less than 21 days. An evaluation shall also be made of the educational needs, community ties, and other needs of the family in order to determine the most appropriate temporary placement for the family pursuant to section 900.7 of this Part; and
 - (2) provide a family who is being housed in a tier I facility for more than 21 days with the services such family would have received pursuant to subdivision (c) of this section in a tier II facility if the family had been placed in such a facility.
- (c) Tier II facilities. In addition to the resident services provided in accordance with subdivision (a) of this section, a tier II facility must provide the following resident services:
 - (1) Assessment services.

- (i) Within 10 days of admission to a tier II facility the family and staff of the facility must have developed and mutually agreed to a written services plan designed to help the family to achieve permanent housing arrangements. This services plan must include an assessment of the family's needs, an analysis of how these needs will be met through existing public assistance and care programs, including child welfare programs, and other sources of assistance, and the steps that will be taken to achieve the service needs of the family. A social services district may substitute an independent living plan developed in accordance with the provisions of section 352.35 of this Title for the written services plan, provided that it contains the elements described in subdivision (d) of section 900.9 of this Part.
 - (ii) The services or independent living plan must be reviewed with the family biweekly and such plan must be revised as necessary to obtain permanent housing. The family shall have access to its services or independent living plan and case file.
 - (iii) The facility or social services district must document the resident services or independent living plan and all direct services and service referrals to other entities provided while the resident family is in the facility.
- (2) Preparation for permanent housing.
- (i) Preparation for permanent housing must be provided which implements the services or independent living designed to help the family obtain permanent housing must be provided in accordance with the family's services plan.
 - (ii) At a minimum, preparation for permanent housing must include assistance in:
 - (a) obtaining permanent housing including assistance in locating adequate available housing, providing referrals to such housing, providing assistance in obtaining needed documents, providing advocacy assistance in the completion and filing of housing applications, scheduling of appointments for viewings and inspections of premises, providing assistance in preparing for interviews, and providing assistance in establishing competency skills for permanent housing by addressing issues such as budgeting, accessing community resources, housekeeping, home repairs and landlord/tenant rights.

- (b) securing necessary supportive social and mental health services including, but not limited to, psychiatric and drug and alcohol abuse services; and
 - (c) securing employment assessments, job training and job placement services, where appropriate.
- (3) Recreational services. Appropriate recreational services must be provided.
- (4) Information and referral services. Facilities must maintain a listing of local community agencies and programs whose services might assist residents to return to permanent housing. Facility staff must refer residents to such programs, as needed and when appropriate.
- (5) Child care services.
 - (i) Supervised care of all children must be provided when such care is necessary to enable the parent or caretaker relative of such child to seek employment and/or permanent housing or to attend school or training. Staff responsible for such care and supervision of the children must have prior experience in child care or must receive adequate training to enable them to perform such functions.
 - (ii) If child care is provided on-site, the staff/child ratios for adults providing supervised care other than recreational services for preschool children and for school-age children not in attendance at school must be a minimum of one adult per 8 children and one adult per 15 children, respectively. For the purpose of this section, a suitable adult resident may be counted as staff for the purpose of the supervised care ratios.
 - (iii) If child care is provided off-site, the day-care center or family day care home must be in compliance with all applicable State and local requirements concerning licensing and operations.
 - (iv) Day care may be provided on-site, provided the appropriate agency has licensed the program and the social services district has committed to fund the program using Title XX or other appropriate funding sources.
- (d) Congregate shelters for homeless pregnant women. In addition to the resident services provided in accordance with subdivision (a) of this section, a congregate shelter for homeless pregnant women must provide the following services:
 - (1) Health services. Shelters must demonstrate that the services listed below are

available to residents of the shelter. If the services are to be provided at the shelter, the medical provider must be licensed by the appropriate entity to provide services at the shelter site. Services include:

- (i) initial medical evaluation of each resident; and
 - (ii) comprehensive prenatal care services which include:
 - (a) prenatal risk assessment;
 - (b) prenatal care visits and laboratory procedures;
 - (c) referral for special tests, consultations and hospitalization, and mechanisms to assure that services were received;
 - (d) health education regarding prenatal nutrition, alcohol and tobacco use, drug abuse, use of medication, other aspects of prenatal care, labor and delivery, family planning to prevent future unintended pregnancies, breast feeding, infant care and parenting;
 - (e) referral for pediatric care;
 - (f) referral for nutrition services including screening, education, counseling, follow-up and provision of services under the women, infants and children's program and the supplemental nutrition assistance program;
 - (g) referral for mental health and related social services including screening and counseling;
 - (h) arrangements for delivery and post-partum services; and
 - (i) assistance with transportation for prenatal care services.
- (2) Casework services. Congregate shelters for homeless pregnant women must provide casework services designed to identify current needs, possible community supports and future needs of its residents. A written services plan must identify all services provided to the resident and the goals the resident hopes to achieve. Case workers must meet at least biweekly with residents to review the residents' progress and to identify any problems.
- (3) Permanent housing services. Congregate shelters for homeless pregnant women must provide assistance designed to enable each resident to obtain permanent housing. Such assistance must include: assistance in locating adequate available housing, providing referrals to such housing, providing assistance in obtaining

needed documents, providing advocacy assistance in the completion and filing of housing applications, scheduling of appointments for rentals and inspections of premises, providing assistance in preparing for interviews, and providing assistance to establish competency skills for permanent housing by addressing issues such as budgeting community resources, housekeeping, home repairs and landlord/tenant rights.

Revisions

(Section amended 1/15/92.)

(Section amended 9/10/97.)

(12/02/99 subd. (c) amended.)

900.11 Supervision.

- (a) Supervision of the program and families in family shelters must include, but is not limited to:
- (1) recording a daily census of residents, including a record of daily admissions and discharges as well as previous housing arrangements of residents and the length of time each family has resided in the facility and in emergency housing;
 - (2) in tier I and tier II facilities, maintaining a list of school-age residents currently residing in the facility and the location of the school each child attends;
 - (3) surveillance of the grounds, facility and activities of the residents to prevent theft and resident harm;
 - (4) handling and documenting individual emergencies, including arranging for medical care or other emergency services and maintaining records of any special medical needs or conditions, the prescribed regimen to be followed and the names and phone numbers of medical doctors to contact should an emergency arise concerning these conditions;
 - (5) handling and documenting incidents involving resident endangerment, injury or death;
 - (6) in tier I and tier II facilities, reporting or causing a report to be made to the State central register of child abuse and maltreatment involving a resident under age 18 and a subject of a report as defined in section 412 of the Social Services Law, in accordance with the circumstances and procedures set forth in sections 413 and 415 of the Social Services Law;
 - (7) conducting and supervising facility evacuations and periodic evacuation drills as follows:
 - (i) the facility must have a written plan detailing the procedures to be

followed in caring for residents in the event of an emergency or disaster; all employees of the facility must have knowledge of the emergency and disaster plan and of their responsibilities under such plan;

- (ii) evacuation procedures outlining the method and manner in which residents and staff are to evacuate the facility in event of fire and other emergency must be conspicuously posted on each floor of the facility;
 - (iii) each resident must be informed of evacuation procedures upon admission;
 - (8) instituting fire safety measures and arranging for fire safety training for facility staff and residents; fire drills must be held with staff and residents on a monthly basis and a record of such drills must be maintained; and
 - (9) securing the facilities. Such security may include locking the facility to control access and egress during specified nighttime hours. Facilities must make arrangements which allow residents to receive visitors. The facility may set reasonable visiting hours and may limit visitor access to designated areas of the facility except for access by legal representatives or legal counsel guaranteed in section 900.9 of this Part. Such hours and location must be included in the facility rules, which must be posted in a location accessible to residents and visitors.
- (b) A sufficient number of competent staff must be onsite at all times to supervise, operate and maintain the premises in a safe and sanitary condition and to render the services the facility is required to provide pursuant to the provisions of this Part. The department will monitor the staffing of facilities to ensure comparability of staffing patterns and staff salaries in relation to the service needs of the residents.
- (1) All facilities must have at least one awake staff person on duty and on-site per day. A sufficient number of competent staff must be on-site at all times to supervise, operate and maintain the shelter in a safe and sanitary condition and to render the services the shelter is required to provide pursuant to the provisions of this Part and the facility's approved operational plan.
 - (2) At all times at least one member of the staff must be a nurse or have a minimum of eight hours of basic first-aid training.
- (c) Any staff member or volunteer contracting an infectious or contagious disease must cease work at the facility. Return to work by personnel who have been diagnosed to have a communicable disease may, at the request of the facility director, be subject to a physician's written approval.
- (d) Staff training must be in accordance with a training plan contained in the operational plan

and must orient and train employees in residents' rights and facility rules, procedures and/or regulations relative to the specific duties to be performed, and emergency procedures.

Revisions

(Section amended 1/15/92.)

(10/16/92 subd. (b) amended.)

(09/10/97 subd. (a) amended.)

900.12 Environmental standards.

- (a) The facility must be maintained in a good state of repair and sanitation and in conformance with applicable State and local laws, regulations and ordinances in order to assure a safe, comfortable environment for residents.
 - (1) All areas of the facility, including exits which are accessible to residents, must be well-lighted.
 - (2) All lavatories, sleeping areas, recreational areas, hallways, and other living areas must be kept clean, sanitary, and free of insects, rodents and trash. Procedures must be established and implemented for the cleaning and maintenance of the entire facility.
 - (3) All garbage and refuse containers must be securely covered and emptied on a regular daily basis.
- (b) Bathrooms.
 - (1) There must be a minimum of one tub or shower for every 15 individual residents and one sink and one toilet for every 10 residents. In tier I and tier II facilities, separate bathrooms must be provided for males and females in ratios appropriate to the percentage of males and females in the facility census and the number of young male children in families without older male members.
 - (2) Tier I and tier II facilities must provide adequate space and equipment, such as bathtubs, portable tubs and basins, for the bathing and changing of infants and young children.
 - (3) Facilities must assure that bathing and toilet facilities are accessible and in working order with hot and cold water 24 hours a day.
 - (4) Curtains, dividers, partitions, private stalls, or other similar devices must be utilized to afford residents privacy when using toilets, showers and tubs. Private areas for changing clothes must be provided adjacent to tubs and showers.
 - (5) Bathrooms must be cleaned a minimum of twice daily and more often if

necessary.

- (6) Hot water for bathing and washing must be maintained at a maximum temperature of 120 degrees Fahrenheit.
- (c) Sleeping areas.
- (1) Tier I facilities.
 - (i) Each family must have an individual identified sleeping area providing at least 50 square feet of space per family member.
 - (ii) Any room or other enclosed space divided into individual family sleeping areas may sleep no more than a total of 50 persons.
 - (iii) Separate private areas for each sex must be provided for changing clothes.
 - (2) Tier II facilities. Each resident family must have an individual room with a door containing a working door lock and with the minimum square footage per family member as required by the applicable State or local code.
 - (3) Congregate shelters for homeless pregnant women.
 - (i) Each individual identified sleeping area in a congregate shelter for homeless pregnant women must provide at least 50 square feet of space per resident, excluding closet space. Curtains, dividers or partitions must be placed between beds if two or more beds are placed in a single sleeping area.
 - (ii) Any room used as a sleeping area may sleep no more than a total of 10 persons.
- (d) Dining and recreation areas.
- (1) In family shelters, recreation or leisure areas must be provided which are separate from sleeping areas and which have sufficient space and furnishings to serve the needs of the residents.
 - (2) In facilities serving meals onsite, dining areas must be provided which are separate from sleeping areas and which have sufficient space and furnishings to serve the needs of the residents.
- (e) Furnishings and equipment.
- (1) The facility must provide furnishings and equipment, including toys, which do not

endanger resident health, safety and welfare and which support daily activities.

- (2) All furnishings and equipment must be durable, clean and appropriate to function.
- (3) The facility must furnish each resident, whether an adult or child, with a clean bed (or cribs for infants) a minimum of 27 inches in width, solidly constructed, and in good repair which has:
 - (i) a clean, comfortable and well-constructed mattress, standard in size for the bed; and
 - (ii) a clean and comfortable pillow of standard size.
- (4) Each resident must be supplied with:
 - (i) sheets;
 - (ii) a pillowcase;
 - (iii) one or more blankets depending on the season;
 - (iv) towels;
 - (v) soap;
 - (vi) toilet tissue; and
 - (vii) disposable diapers for infants in tier I facilities. In tier II facilities, diapers must be supplied to families which request them in emergency circumstances including, but not limited to, circumstances where a family has no funds to purchase them.
- (5) Bed linens, blankets and towels must be:
 - (i) clean and washable;
 - (ii) free from rips and tears; and
 - (iii) available when changes are necessary.
- (6) A complete set of bed linens and towels must be provided to each resident at entry as needed thereafter. Residents may, however, be required by the operator to launder and change linens and towels regularly.
- (7) Each family must be supplied with at least one bureau or chest of drawers. In congregate shelters for homeless pregnant women, the bureau or chest of drawers must be able to be secured by the resident.
- (8) All operable windows must be equipped with screens and locks, and in facilities where children reside all operable windows must have window guards in place. All windows in sleeping areas must have shades or other appropriate window covering to ensure privacy.
- (9) Light fixtures must be shaded to prevent glare. All electrical outlets accessible to

children must be adequately protected.

- (10) Dining areas must be furnished with dining tables and chairs appropriate to the size and function of the facility.
 - (11) Living rooms, sitting rooms, lounges and recreation areas must be furnished with tables, chairs, lighting fixtures and other equipment appropriate to the size and function of the specific area and of the facility.
 - (12) A minimum of one washing machine and dryer must be provided for resident use. Such laundry facilities must be located in a clean, dry, well-lighted area.
 - (13) The facility must maintain areas suitable for posting required notices documents and other written materials in locations visible and accessible to residents, staff and visitors.
 - (14) Heating systems must be maintained in good working order.
 - (15) In tier I facilities, each family must be provided with a locker or other similar secured container. The family must have access to such locker or secured container.
 - (16) An adequate number of pay telephones must be available for resident use.
- (f) Safety procedures.
- (1) Chain locks, hasps, bars, padlocks and similar devices must not be used in any communal area in a way that would inhibit access to an exit or the free movement of residents.
 - (2) Doors in residents' rooms in tier II facilities must be able to be secured by the resident, provided such doors can be unlocked from the outside and the inside and keys are carried by supervisory and security staff at all times.
 - (3) Residents must not have access to storage areas used for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable material unless necessary for work they are performing.
 - (4) Hallways and corridors must not be used for storage of equipment or trash.
- (g) Kitchens, sanitation and sanitary procedures.
- (1) All kitchens or food service and preparation areas must be well-lighted and ventilated, and provided with essential and proper equipment, adequate for the number of residents to be served, for storage, refrigeration, freezing, preparation and serving of food.

- (2) Food service areas must be provided with sufficient and suitable space and equipment to maintain efficient and sanitary operation of all required functions, in compliance with the New York State Sanitary Code, 10 NYCRR Part 14 as promulgated by the New York State Department of Health. All other State, county and local health and fire department regulations relating to kitchen operations for fire protection, safety, sanitation and health must also be complied with.

Revisions

(Section amended 1/15/92.)

(09/10/97 subd. (b), paras. (1) & (2) are amended; subd. (c), para. (3) is added; subd. (d), para. (1) is amended; subd. (e), para. (4), subpara. (vii) is amended; subd. (e), paras. (6), (7) & (8) are amended; subd. (e), para. (15) is repealed and a new para. (15) is added; subd. (f), para. (2) is amended.)

900.13 Nutrition.

- (a) Provision must be made to ensure that residents can conveniently obtain three well-balanced meals daily. In tier I and tier II facilities, meal service may be provided at the facility, or outside the facility, whether directly or through contractual arrangements, or in restaurants through the use of food stamps or voucher arrangements. In congregate shelters for homeless pregnant women, meal service must be provided at the shelter whether directly or through contractual arrangements.
- (b) In shelters which prepare their own meals, food-buying and menu-planning arrangements must be overseen by a staff member, consulting dietician, or volunteer sufficiently knowledgeable in nutrition and dietetics to ensure the planning of well-balanced meals and the purchase of food of good quality and sufficient quantity so that adult and child residents, including pregnant women and infants, receive at least three nutritional meals and appropriate healthful snacks daily.
- (c) Contracted food services are allowable. Meals purchased from a vendor must meet the nutritional needs of residents.
- (d) Tier I and tier II facilities must provide refrigeration and cooking equipment to accommodate the feeding of infants and the storage of medication. Formula, milk, baby food and juices for infants must be provided in tier I facilities and those tier II facilities which provide three meals a day, and must be available on a 24-hour basis. In tier II facilities, which provide fewer than three meals a day, formula, milk, baby food and juices for infants must be provided only in emergency circumstances where a family requests such items including, but not limited to, circumstances where the family has no funds to purchase them.
- (e) Special medically prescribed dietary or nutritional needs of any adult or child resident must be accommodated regardless of the food-buying and meal preparation arrangements of the program.

- (f) Notwithstanding subdivision (a) of this section, a facility which has facilities capable of providing meals to residents must provide three meals per day. Meals may be provided directly or through contractual arrangements. Residents may not be charged for these meals.

Revisions

(Section amended 1/15/92.)

(09/10/97 subs. (a), (b), (c) & (d) are amended.)

900.14 Inspection by the department; certification by local social services districts; additional reporting requirements.

- (a) The department shall inspect any facility providing shelter and services to homeless families for which a local social services district seeks reimbursement to ensure that the facility is in compliance with all applicable laws, regulations and standards set by the department, and to determine that the services and care provided are adequate and appropriate and in conformance with the operational plan approved for the facility.
- (b) The facility must allow the commissioner and/or the commissioner's designee full access at any time to its grounds, buildings, employees and residents, and books and papers including, but not limited to the residents' case records.
- (c) Inspection means periodic scheduled, announced or unannounced onsite investigation at least once a year, including gathering of written, photographic, or other physical evidence by staff of the department, during regular business hours and/or at night or on weekends, for the purpose of determining facility compliance with this Part and the operational plan for the facility.
- (d) Following an onsite visit, the department must forward to the local social services district and to the facility a written statement of findings resulting from the visit including specific notation of areas where the facility fails to meet the requirements of this Part and the operational plan for the facility.
- (e) In order to receive reimbursement for families placed in a facility, the local social services district must certify annually to the department that each facility for which it seeks reimbursement for shelter and services provided to homeless families is in compliance with all applicable State and local laws and regulations as required by section 900.5 of this Part. In addition, within 90 days of the end of the fiscal year for such social services district, the social services district must submit an accounting statement for each facility for which it has an approved operational plan. Such statement must detail costs incurred and reimbursement received during the fiscal year pursuant to this Part for such facility. If, based on the accounting statement for the fiscal year, the social services district anticipates that income and expenditures during the remaining period covered by the facility's operational plan will not conform to the proposed budget contained in the operational plan, the district must also submit to the department for approval a revised

proposed budget for such remaining period. Within 90 days of the end of the periods specified in section 900.15(c)(3) of this Part, the social services district must provide to the department written information, on forms and in the manner prescribed by the department, on those families which have resided in a tier II facility beyond the time limitation specified in that section.

- (f) Upon receipt of a statement of findings noting areas where the facility fails to meet the requirements of this Part, but in no case later than 30 days following the date of issuance, the social services district must correct the deficiencies or in the event that correction requires more than 30 days, submit an acceptable plan for correction. The plan must be approved by the department. Upon notification by the department that there has been a failure of a social services district in accordance with subdivision (e) of this section to certify that a facility is in compliance with State and local law and regulations, but in no case later than five days thereafter, the social services district must submit to the department the required certification or provide an explanation for its failure to do so along with a plan for submitting the required certification within 30 days. The plan must be approved by the department.
- (g) Notwithstanding any other provisions of this section, in the event that an endangering condition exists and the department has found that the health, safety or welfare of the public or any individual is in imminent danger, the department may issue an order to correct such condition immediately or within any specified period of less than 30 days.
- (h) Failure on the part of the facility to correct a noted deficiency within the time period specified in an order issued pursuant to subdivision (g) of this section, or to correct deficiencies or submit certification in accordance with subdivision (f) of this section, may result in withholding or denial of reimbursement in accordance with section 900.15 of this Part or withdrawal of approval of the facility's operational plan. If approval of a facility's operational plan is withdrawn, a social services district will no longer be reimbursed for the provision of shelter and services to homeless families in such facility.
- (i) Complaints of noncompliance may be submitted to the local district by or on behalf of residents. Upon receipt of such a complaint, the local district must determine whether the facility is in compliance and advise both the department and the complainant of its findings. If the facility is not in compliance, the department must issue a notice of noncompliance to the local social services district in accordance with subdivision (d) of this section.

Revisions

(Section amended 1/15/92.)
(10/16/92 subd. (e) is amended.)

900.15 Penalties for non-compliance by social services districts.

- (a) Reimbursement of a social services district for the costs of the district's operating a facility providing shelter and services to homeless families, either directly or indirectly,

or for payments made to a facility operator for the provision of shelter and services to homeless families, will be subject to withholding or denial when a facility providing such care fails to comply with the requirements of State or local laws, regulations and codes as specified in section 900.5(a) of this Part including the applicable provisions of this Part, or with the terms of its operational plan.

- (b) Notification. The department must notify the district of all violations of the provisions of this Part prior to denying reimbursement.
- (c) Funds to be denied. If violations have not been corrected within 30 days from the date the district received notice of the violations, or within any lesser period ordered by the department pursuant to section 900.14(g) of this Part, or an acceptable plan for correction is not submitted pursuant to section 900.14(f) of this Part, or notice that the district has not certified a facility in accordance with section 900.14(e) of this Part, or that the district has not complied with the requirements of section 900.3(e) of this Part, or that the district has not met the performance standards as outlined in this section, the department may withhold or deny reimbursement beginning the 31st day after such notice, or the day following the expiration of any lesser period ordered by the department pursuant to section 900.14(g) of this Part, and continuing until the department notifies the district in writing that the facility is in compliance with this Part. Reimbursement may be withheld or denied as follows:
 - (1) up to 100 percent of the Federal and State reimbursement for allowable expenses for each nonconforming facility;
 - (2) in districts having three or more shelters for families, where more than 40 percent of the district's shelters for families are concurrently subject to penalty pursuant to this section, up to 100 percent of the Federal reimbursement and up to 50 percent of the State reimbursement for total allowable expenses for all shelters in the district;
 - (3) up to 100 percent of the federal and State reimbursement per family per month for those families continuously residing in approved tier II facilities in excess of 9 months, on or after October 15, 1993, and in excess of 6 months on or after October 15, 1994.
 - (4) up to \$1,000 per family for each family which fails to meet any of the threshold performance standards as follows:
 - (i) 95 percent of the families residing in a tier II facility for at least 10 days will have their service needs assessed within that time period as provided by section 900.10(1)(c)(1)(i) of this Part; or
 - (ii) 95 percent of the families residing in a tier II facility for at least 10 days will have a mutually agreed upon service plan developed within that time period as provided by section 900.10(1)(c)(1)(i) of

this Part; or

- (iii) 95 percent of the families residing in a tier II facility over 10 days will meet with facility staff every two weeks to have their service plans reviewed and revised as necessary as provided by section 900.10(1)(c)(ii) of this Part; or
- (iv) 95 percent of the school age children residing in a tier II facility will be enrolled in school within 10 days of admission as provided by 900.3(b)(1)(x) of this Part; or
- (v) 95 percent of the families which have a service need which has been identified in the families' service plans will be given a referral to an appropriate service provider within 30 days of the assessment of the need as provided in 900.10(c)(4) and 900.10(c)(2)(ii) of this Part. The service needs which if addressed will facilitate families' return to permanent housing include but are not limited to: education/employment; domestic violence; substance/alcohol abuse; mental health; and child abuse and neglect.

Revisions

(Section amended 1/15/92.)
(10/16/92 subd. (c) amended.)

900.16 Reimbursement.

- (a) The operational plan for each shelter for families must include on forms and in the manner prescribed by the department a financial statement for the facility's most recently completed fiscal year, if any. In addition, the operational plan must contain a proposed one year budget, including estimated income and expenditures. Such budget must set forth the costs reasonable and necessary to operate and maintain the facility consistent with each of the requirements of the operational plan and this Part. The reasonableness of any such costs must be evaluated by the department, taking into account factors including, but not limited to (1) a comparison of cost data from other types of facilities housing similar populations or incurring similar expenditures, and (2) a comparison of costs incurred by other shelters utilizing similar operational structures or incurring similar expenditures. The budget must be based upon the estimated net actual expenditures for the operation and maintenance of facilities and for the care of the residents with respect to items approved under the operational plan. For tier I and tier II facilities, the budget must include a schedule of per diem rates for families of various sizes, unless another methodology is presented by which the department will be able to allocate facility charges to appropriate programs pursuant to subdivision (f) of this section. The budget must be presented in sufficient detail to enable the department to identify costs which are not subject to Federal financial participation. Budgets of facilities not operated by social services districts must be agreed upon between the district and the facility operator. All budgets must be formulated to ensure that the costs of resident services that may be paid

from other funding sources, including but not limited to the Medical Assistance program, are not included as costs in the proposed shelter budgets.

(b) Costs reasonably necessary under any operational plan shall be limited as follows:

- (1)
 - (i) Related party transactions. Actual costs for rental of land, building and equipment and other personal property owned or controlled by organizations or persons affiliated with an organization operating a facility, or owned or controlled by members, directors, trustees, officers or other key personnel of such operator or their families either directly or through corporations, trusts or other similar arrangements in which they hold more than 10 percent interest in such land, building and equipment or an interest valued at \$1,000 or more, whichever is less, are allowable only to the extent that such rentals do not exceed the amount the operator would have received had legal title to the rented items or facilities been vested in it.
 - (ii) Actual charges in the nature of rent between or among organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance and maintenance; provided that no part of such costs shall duplicate any other allowed costs.
 - (iii) Nonrelated party transaction. Rental costs of land, building and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the areas, the type, life expectancy, condition and value of the facilities leased, options available and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve, among other considerations, comparison of rental costs with the amount which the operating organization would have received had it owned the facilities.
 - (iv) Sales/leaseback transactions. Rental costs specified in sale and leaseback agreements, incurred by persons or organizations through selling facilities to investment organizations, such as insurance companies, associate institutions or private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the organization would have received had it retained legal title to the facilities.
- (2) Capital costs and depreciation are limited as follows:
 - (i) Capital costs are not allowable, except as provided in section

600.3(b)(7) of this Title.

- (ii) Compensation for the use of buildings, capital improvements and capital equipment may be made through either depreciation or the allowance provided in section 609.5(f)(2) of this Title with respect to office space. Capital equipment is any equipment with an acquisition cost exceeding \$1,500 and having a useful life of more than two years. No depreciation allowance is permitted with respect to the cost of land. Costs incurred for improvements which add to the permanent value of buildings and equipment or which appreciably prolong their intended life must be treated as capital expenditures. Costs incurred for necessary maintenance, repair or upkeep of buildings or equipment which neither add to nor appreciably prolong their useful life, but keep them in an efficient operating condition must not be treated as capital costs.
- (iii) Depreciation allowances must use the straight-line method with a useful life reflecting the probable period of useful service, which in the case of a building must not be less than 25 years; provided, however, that the department may authorize a shorter period for privately owned shelters, but in no case less than 10 years and then only when private financing cannot otherwise be obtained and a longer period would cause undue financial hardship. When a depreciation period less than 25 years is used, the aggregate amount by which the reimbursement paid exceeds the amount which would otherwise be payable over the same period constitutes an advance of reimbursement and the social services district must obtain and file a mortgage agreement securing any such advances. Such debt becomes due and owing upon the conversion of the facility to any use other than as a family shelter earlier than 25 years. With respect to publicly owned shelters, the department may permit a depreciation period shorter than 25 years, but in no event less than the applicable period of probable usefulness under section 11.00 of the Local Finance Law. Any determination to use a period shorter than 25 years must be approved by the Director of the Budget.
- (iv) If less than a 25 year useful life is approved, then in the case of privately owned shelters subject to a mortgage, or similar financial arrangement, the amount allowed in any year for depreciation and interest will in no event exceed the amount paid by the facility for interest and principal on the mortgaged premises. With respect to publicly owned shelters, the amount allowed for the depreciation and interest will in no event exceed the allocable amount paid by the social services district for principal payments and costs for debt service with respect to the premises.

- (v) Interest costs may be considered an allowable cost subject to the following:
 - (a) the capital indebtedness does not exceed the current approved value of the property;
 - (b) the interest rate charged for the borrowed funds is competitive with existing interest rates;
 - (c) the interest is necessary and proper for the operation, maintenance or acquisition of the facility; and
 - (d) the interest must be supported by a contractual agreement for the payment of interest and for the eventual repayment of the loan for which the interest was incurred.
 - (vi) In the case of privately owned shelters, depreciation shall be limited to the costs of acquisition, renovation and rehabilitation of the facility. The costs of acquisition shall be the lesser of the actual costs incurred by the provider to acquire the facility or the fair market value of the facility. Shelter operators must provide an appraisal of the property compiled by an independent appraiser with the financial material submitted with the operational plan to the department.
- (3) Costs of a shelter may include a reasonable allowance for reserve beds or standby capacity based upon the intended use of the facility, the family capacity of the facility and foreseeable fluctuations in resident population.
- (c) (1) Revised budgets must be submitted (1) prior to finalizing any purchase or rate agreement, and (2) annually with respect to any publicly operated facility subject to this Part.
 - (2) For the State fiscal year beginning April 1, 1992, and ending March 31, 1993, no rate adjustments will be approved relating to any salary enhancements, additional or enhanced fringe benefits, or cost of living, or other adjustments for operational or non-personal service cost increases, except for increases mandated by statute or regulation or debt service schedules previously approved by the Department.
 - (d) The department must review the material provided and the proposed budget. State reimbursement is available for costs found by the department to be reasonable, subject to the approval of the director of the Division of the Budget.
 - (e) The social services district may within 30 days request a review of the department's determination of reimbursable costs by requesting consultation. The consultation period begins when a letter requesting consultation is received by the department and continues

until agreement is reached or the department affirms or, subject to the approval of the director of the Division of the Budget, redetermines the costs allowable; provided, however, that if within 30 days of a request for a review no decision is reached, the department's determination will be deemed affirmed unless the district requests and the department grants an extension of time for a decision.

- (f) A district may claim and receive reimbursement from the office for costs approved under subdivisions (d) and (e) of this section. Such reimbursement must be adjusted to reflect actual allowable costs in any fiscal period covered by an operational plan. Requests for adjustment for a fiscal period may be submitted during, but in no event later than 90 days after the end of, such fiscal period. No requests for adjustments will be approved if the actual occupancy rate of the facility falls below the minimum occupancy rate assigned to the facility under Section 900.3(2)(v) of this Part. Reimbursement for the costs of shelter of families eligible for or receiving benefits under the Emergency Assistance to Needy Families with Children, Family Assistance, Safety Net Assistance, Veteran Assistance, or Emergency Assistance to Aged, Blind and Disabled Persons programs must be charged to the applicable program. In addition, districts are subject to the recordkeeping requirements contained in Part 600 of this Title with respect to all shelter care for which reimbursement is claimed.

Revisions

- (Section amended 1/15/92.)
- (10/16/92 subd. (c) is amended; subd. (f) is amended.)
- (05/04/94 subd. (b), para. (2), subpara. (iii) is amended.)
- (09/10/97 subd. (a) amended.)
- (12/02/99 subd. (f) amended.)

900.17 Special needs allowance.

- (a) Local districts shall provide a monthly special needs allowance to families and to pregnant women residing in public or private Tier II shelters providing three meals per day as set forth in the following schedule:

Number of Persons in Household						Each additional person
One	Two	Three	Four	Five	Six	\$63
\$63	\$126	\$189	\$252	\$315	\$378	\$63

For facilities providing fewer than three meals per day, the needs allowance shall be equal to the allowances for a family of the same number of persons under subdivisions 3, 3-c and 3-d of section 131-a of the Social Services Law, plus an allowance for restaurant meals under Schedule SA-5 pursuant to section 352.7(c) of this Title.

- (b) Local districts shall provide a monthly special needs allowance to families residing in public or private Tier I shelters equal to the allowance for a family of the same number of

persons under subdivision 3, subdivision 3-c and subdivision 3-d of section 131-a of the Social Services Law. If fewer than three meals are provided, an additional allowance shall be made for restaurant meals under Schedule SA-5 pursuant to section 352.7(c) of this Title. Where a family has been involuntarily transferred from a Tier II facility to a Tier I facility, the family shall still receive only the special needs allowance provided to residents of Tier I facilities.

- (c) Social services districts must provide a monthly special needs allowance to homeless pregnant women residing in congregate shelters for homeless pregnant women in the amount of \$45.00 per resident.
- (d) A monthly allowance of \$50 shall be added to the appropriate monthly special needs allowance of any pregnant woman beginning with the fourth month of pregnancy or the month in which medical verification of the pregnancy is presented to the district, whichever is later.
- (e) Allowances shall not be provided where they would duplicate grants or allowances already received, unless the general requirements governing replacement grants are satisfied.

Revisions

(09/10/97 subs. (c) and (d) are relettered (d) and (e) respectively and a new subd. (c) is added.)

900.18 Facility charges.

- (a) To the extent that a resident family has income, the family must pay for the actual costs of its care, pursuant to the budgeting requirements set forth in Part 352 of this Title. For recipients of Emergency Assistance to Needy Families with Children, Family Assistance, Safety Net Assistance, Veteran Assistance or Emergency Assistance to Aged, Blind and Disabled Persons, public assistance budgeting rules set forth in Part 352 of this Title must be used in determining the amount of available income to be applied toward the costs of care.
- (b) Any amounts which are not permitted to be counted as income under the assistance program applicable to the family shall not be counted as income for purposes of this section.

Revisions

(Section amended 1/15/92.)

(12/02/99 subd. (a) amended.)

900.19 Confidentiality of HIV and AIDS related information.

- (a) An operator or employee must not require that an applicant for employment, volunteer, prospective resident, resident or employee be tested for HIV.

- (b) An operator or employee must not require an applicant for employment, volunteer, prospective resident, resident or employee to disclose confidential HIV related information.
- (c) Confidential HIV related information means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV related information, concerning whether an individual has been the subject of an HIV related test, or has HIV infection, HIV related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts. The terms HIV related test, HIV infection, HIV related illness and AIDS are defined in section 360-8.1 of this Title.
- (d) The HIV status of an applicant for employment, prospective resident, resident, volunteer or employee cannot be used as the sole basis to deny admission, retention or employability.
- (e) Confidential HIV related information may be disclosed by an operator, employee or volunteer only in accordance with the procedures set forth in this section and only as necessary to provide appropriate services to a resident.
- (f)
 - (1) The operator must maintain the confidentiality of individual resident records, and not release information in a resident record to anyone other than the resident, next of kin or authorized representative of the resident, an employee or designee of the department or employees of the facility providing social services without the resident's written permission, provided that confidential HIV related information concerning residents must be maintained in accordance with this section.
 - (2) The operator must maintain confidential HIV related information concerning employees, volunteers, applicants for employment and prospective residents in accordance with this section.
- (g) An operator, volunteer or employee who obtains confidential HIV related information concerning any prospective resident, resident, applicant for employment, employee or volunteer may disclose that information to a health care provider or health facility when knowledge of the confidential HIV related information is necessary to provide appropriate care or treatment to the protected individual. Except as specified in subdivision (k) of this section, in all other circumstances, an operator, volunteer, or employee who obtains confidential HIV related information concerning any applicant for employment, prospective resident, resident, employee or volunteer must not disclose that information without specific written authorization to release that information from:
 - (1) the protected individual; or
 - (2) a person authorized by law to consent to health care for the individual.

- (h) The authorization to release HIV information must:
 - (1) be dated;
 - (2) specify to whom disclosure is authorized;
 - (3) specify the purpose for the disclosure;
 - (4) specify the time period during which the release is effective;
 - (5) specify that the information to be disclosed is confidential HIV information; and
 - (6) be signed by the protected individual or, if the individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual.
- (i) A general authorization for the release of medical or other information cannot be used as an authorization to release confidential HIV related information.
- (j) Whenever an operator, volunteer or employee discloses confidential HIV related information, that person must:
 - (1) enter a dated and signed notation of disclosure of confidential HIV related information in the protected individual's record; and
 - (2) within 10 days of the date of disclosure, when disclosure is oral, or simultaneous, when disclosure is written, give a written statement to the person to whom the confidential HIV related information is disclosed which states:

"This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."
- (k) Notwithstanding the requirements of this section, an operator of a shelter for homeless families or an employee or volunteer of such a facility is obligated to release confidential HIV related information to authorized employees or agents of the department or a social services district when such information is reasonably necessary to supervise, monitor, or administer the facility and such employee or agent of the department or a social services district would, in the ordinary course of business have access to such records. Authorized employees and agents of the department or a social services district may obtain confidential HIV related information under this subdivision even though the facility does not obtain the release specified in subdivision (h) of this section. In addition, when

information is released under this section by a shelter for homeless families, the facility is not required to give the statement specified in subdivision (j) of this section to the employees or agents of the department nor is the facility required to indicate in any resident's record that the information was released.