



REC D AUG 23 2000

George E. Pataki
Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001

Brian J. Wing
Commissioner

: ADMINISTRATIVE DIRECTIVE :

TRANSMITTAL: 00 ADM-6

DIVISION: Temporary Assistance

TO: Commissioners of
Social Services

DATE: August 15, 2000

SUBJECT: Temporary Assistance: Initial Notice of Overpayment to
Closed Cases (REVISED)

SUGGESTED
DISTRIBUTION:

: Temporary Assistance Staff
: Staff Development Staff
: Recovery Unit Staff

CONTACT
PERSON:

: Office of Temporary & Disability
: Assistance: Central Team at 1-800-343-8859,
: ext. 4-9344

ATTACHMENTS:

: LDSS: 4682 - Notification of Overpayment of
: Temporary Assistance to a Former Recipient (not on-
: line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
00 ADM-04	00 ADM-04	352.31(d)(5) Part 358		FSSB XV	

OTDA-296EL (Rev. 11/98)

"providing temporary assistance for permanent change"

I. PURPOSE

The purposes of this Administrative Directive are:

1. To inform social services districts (SSDs) that former recipients who are given initial notification about a Temporary Assistance (TA) overpayment may request and be given a fair hearing to challenge that decision; and
2. To introduce the manual notice that districts will use for that purpose; and
3. To answer questions raised by 00 ADM-04; specifically,
 - o To correct the notice number that was incorrect in several places in 00 ADM-04,
 - o To clarify that the LDSS:4682 does not eliminate the use of CNS in these situations but rather, is the manual version of the CNS notice.
 - o To clarify that the LDSS:4682 does not replace the "Intentional Program Violation Disqualification Notice For Public Assistance and Food Stamps".

II. BACKGROUND

Previously, the Office of Administrative Hearings (OAH) would not hold hearings if the TA case was closed, unless the hearing request was related to the closing notice. When overpayments were discovered after case closing, the former recipient could discuss the overpayment reason and calculation with the SSD. However, if he or she disagreed with the SSD, there was no option to take the matter to a fair hearing, unless the TA case reopened and the SSD proposed to start a recoupment. The OAH formerly interpreted 18 NYCRR 358-3.1(f) as precluding hearings involving recoveries through means other than by recoupment.

Recently, however, the OAH has revised its policy based on the provisions of 18 NYCRR 358-3.1(b)(17) and 18 NYCRR 358-2.18. 18 NYCRR 358-3.1(b)17 gives a hearing right where an appellant challenges a specific claim for overpayment brought by the local agency and disagrees with the amount of a claim for the overpayment of public assistance or the overissuance of food stamp benefits. 18 NYCRR 358-2.18 extends this right to include a former recipient seeking to review a determination of a social services agency and who would have a right to a hearing under Section 358-3.1 if such person were a current recipient. Based on federal food stamp regulations, the OAH has been providing hearings on overpayments to former food stamp recipients. The approach to this issue will now be consistent among programs.

III. PROGRAM IMPLICATIONS

A. Temporary Assistance

When the former TA recipient is being given an initial notification

that a TA overpayment has been established, the individual may request, and will be granted, a fair hearing provided that the request is made timely. A timely request is one made within 60 days from the notice date for TA.

The LDSS-4682 - "Notification of Overpayment of Temporary Assistance to a Former Recipient" is the state mandated notice that must be used to provide the former recipient with the initial notice of a TA overpayment.

The CNS version of the LDSS-4682 may be produced by upstate districts using reason code "R40" with transaction type 00 for those districts using CNS for overpayment/recoupment notices.

The LDSS-4682 need not be used when the client is being provided with an initial notification of an overpayment on the TA closing notice.

The LDSS-4682 must not be used to notify a former recipient about a recoupment balance when the individual was previously provided with adequate notice of an overpayment.

The heading of the LDSS-4682 must be completed. The worker completing the notice must also provide the former recipient with the amount of the overpayment, the dates within which the overpayment occurred and an explanation of why the overpayment occurred. In Section II, the district must include a date by which the former recipient must return the "Method of Payment" agreement to the SSD. The notice date plus 10 days is a reasonable response time. The SSD must not start recovery procedures prior to that date.

In the event that the former recipient requests a fair hearing within 10 days of the notice date, no collection activity can be started before the fair hearing decision is issued which upholds the DSS. If the former recipient calls for a fair hearing more than ten days after the notice date but within sixty days of the notice date, and the former recipient wins the hearing, any money collected above the amount owed as determined by the fair hearing must be returned to the individual.

Note: When a closed TA household is being informed of an overpayment as a result of an IPV, then the LDSS-4682 is not used. In those cases, the "Intentional Program Violation Disqualification Notice For Public Assistance and Food Stamps" (97 ADM-23, Attachment VII) is used.

B. Food Stamps

Please refer to the Food Stamp Source Book (FSSB) Section XV for information about Food Stamps claims.

C. Medicaid

There are no Medicaid implications.

D. Overpayment Tracking:

1. Upstate Cash Management System (CAMS)

The claim should not be entered into CAMS until the end of the 10 day period after the issuance of the initial notice of overpayment. If the former recipient has requested a fair hearing, and until the resolution of the fair hearing, the claim must be suspended in CAMS. When the hearing is resolved, the status of the claim must be updated through the CAMS Accounts Receivable function to reflect the outcome of the fair hearing.

2. NYC Recoupment Subsystem

The claim may be entered into the recoupment subsystem immediately to generate a notice to the former recipient. The recoupment subsystem will "clock-down" the entry for a minimum of ten days and will not release the recoupment as a collectable claim until the clock-down period has expired and no fair hearing request has been made. If a fair hearing is requested, and until the resolution of the fair hearing, the claim must be suspended. When the hearing is resolved, the status of the claim must be updated in the recoupment subsystem to reflect the outcome of the fair hearing.

E. FORMS ORDERING INFORMATION

1. UPSTATE

a. English Version

The Upstate English version of the LDSS-4682 (Rev. 3/00) was delivered to the Albany warehouse in June, 2000. These forms will not be drop-shipped to local districts. Local districts may order copies of the form according to the procedures outlined below. Until printed supplies of the LDSS-4682 are available, local districts should photocopy the attached form locally.

b. Spanish Version

The Spanish version (LDSS-4682-S) will not be printed, but a master copy will be available to those Upstate districts who may need to photocopy it.

Initial and future requests for the printed LDSS-4682 and/or the camera ready master copy of the LDSS-4682-S should be submitted on Form DSS-876 (Rev./2/96): "Request for Forms or Publications", and sent to:

Office of Temporary and Disability Assistance
Bureau of Forms and Print Management
P.O. Box 1990
Albany, New York 12201

2. **NYC/HRA**

a. English Version

Because the form will be used primarily in Upstate districts, the NYC English version (LDSS-4682 NYC) will not be printed. A camera-ready master copy can be ordered by NYC/HRA to photocopy.

b. Spanish Version

The NYC Spanish version (LDSS-4682 NYC-S) will not be printed, but a camera-ready master copy can be ordered by NYC/HRA to photocopy.

Initial and future requests for the camera-ready master copies of the LDSS-4682 NYC and LDSS-4682 NYC-S should be submitted on Form DSS-876 (Rev./2/96): "Request for Forms or Publications", and sent to:

Office of Temporary and Disability Assistance
Bureau of Forms and Print Management
P.O. Box 1990
Albany, New York 12201

Questions concerning ordering any of these forms should be directed to the Bureau of Forms and Print Management by calling 1-800-343-8859, ext. 4-2702.

F. Effective Date

The effective date of this Administrative Directive is June 13, 2000, the issuance date of 00 ADM-04



Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance

NOTIFICATION OF OVERPAYMENT OF TEMPORARY ASSISTANCE TO A FORMER RECIPIENT

NOTICE DATE:		NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE			
FORMER CASE NUMBER	CIN NUMBER				
CASE NAME (And C/O Name if Present) AND ADDRESS					
<div style="border: 1px solid black; height: 100px; width: 100%;"></div>		GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP _____			
		OR Agency Conference _____			
		Fair Hearing information and assistance _____			
		Record Access _____			
				Legal Assistance information _____	
OFFICE NO.	UNIT NO.	WORKER NO.	UNIT OR WORKER NAME	TELEPHONE NO.	
SECTION I - TEMPORARY ASSISTANCE					
<p>This is to tell you about an overpayment that occurred when your Temporary Assistance case was active. The time period during which the overpayment occurred was from _____ to _____.</p> <p>The amount of the overpayment is: _____.</p> <p>The reason(s) for the overpayment is: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>					
THE LAW(S) AND/OR REGULATION(S) which allows us to do this is 18 NYCRR 352.31(d)(5) _____					
SECTION II - METHOD OF PAYMENT					
<p>You may repay the entire amount of the overpayment all at once, or in installments. Please return this agreement to let us know about the repayment method that you choose by _____.</p> <p>Please check the installment method you wish to use and sign your agreement:</p> <p><input type="checkbox"/> All at once <input type="checkbox"/> Monthly Payments Only <input type="checkbox"/> Part now, the rest in monthly payments</p> <p>I agree to repay by this method.</p> <p>Signature _____ Date _____</p> <ul style="list-style-type: none"> • We will contact you to discuss the repayment method you have chosen and give you a written statement showing how much you will be repaying (and how long your payments will continue should you choose to repay through monthly payments). • If you fail to make payments as agreed, you will be contacted to discuss a new repayment schedule. <p>If you fail to respond to this notice to repay or you do not repay this debt either all at once, or by monthly payments, the social services district may take the appropriate legal action against your income or resources to recover the overpayment.</p>					

IF YOU NEED HELP IN COMPLETING THIS AGREEMENT, PLEASE CALL US AT THE TELEPHONE NUMBER ABOVE

YOU HAVE THE RIGHT TO APPEAL THIS DECISION. BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION.

CONFERENCE AND FAIR HEARING SECTION
DO YOU THINK WE ARE WRONG?

If you think our decision is wrong, you can request a review of our decision. We will correct our mistakes. You can do both of the following:

1. Ask for a meeting (conference) with one of our supervisors: and
2. Ask for a State fair hearing with a State hearing officer.

1. CONFERENCE (Informal meeting with us)

If you think our decision was wrong or if you do not understand our decision, please call us to arrange a meeting. To do this, call the conference telephone number listed at the top of the front page of this notice or write to us at the address printed at the top of the front page of this notice. Sometimes this is the fastest way to solve any problem you may have. We encourage you to do this even when you have asked for a fair hearing.

If you ask for a conference, you are still entitled to a fair hearing. Even if you ask for a conference, you still have only 60 days from the date of this notice to request a fair hearing. **HOWEVER, IF YOU WANT TO PREVENT COLLECTION OF THIS DEBT UNTIL YOU HAVE HAD A FAIR HEARING, YOU MUST REQUEST A FAIR HEARING WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE.** Read below for fair hearing information.

2. STATE FAIR HEARING

Deadline for Requesting a Fair Hearing: You have the following number of days from the date of this notice to request a fair hearing:

BENEFIT AREA	TIME LIMIT
Temporary Assistance	60 days

How to Request a Fair Hearing: You can ask for a fair hearing in writing or by telephone.

Writing: Send a copy of this notice *completed*, to the Office of Administrative Hearings, New York State Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.

Telephoning: (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL)

If you live in: **Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans or Wyoming County: (716) 852-4868**

If you live in: **Allegany, Chemung, Livingston, Monroe, Ontario, Schuylar, Seneca, Steuben, Wayne or Yates County: (716) 266-4868**

If you live in: **Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tompkins or Tioga County: (315) 422-4868**

If you live in: **Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Sullivan, Ulster, Warren, Washington or Westchester County: (518) 474-8781**

If you live in: **Nassau or Suffolk County: (516) 739-4868**

I want a fair hearing. The Agency's action is wrong because:

If you cannot reach the State by phone, please write to request a fair hearing before the deadline for requesting a fair hearing.

TO PREVENT POSSIBLE COLLECTION ACTIVITIES UNTIL AFTER A FAIR HEARING HAS BEEN HELD: You must call for a fair hearing within ten days of the date of this notice. You may request a fair hearing up to 60 days from the date of this notice but if you make your request later than ten days after the date of this notice, you may not be able to delay collection until the fair hearing decision is issued.

WHAT TO EXPECT AT A FAIR HEARING: The State will send you a notice that tells you when and where the fair hearing will be held.

At the hearing, you will have a chance to explain why you think our decision is wrong. You can bring a lawyer, a relative or a friend or someone else to help you do this. If you cannot come yourself, you can send someone to represent you. If you are sending someone who is not a lawyer to the hearing instead of you, you must give this person a letter to show the hearing officer that you want this person to represent you at the hearing.

At the hearing, you and your lawyer or other representative will have a chance to explain why we are wrong and a chance to give the hearing officer written papers which explain why we are wrong.

To help you explain at the hearing why you think our decision is wrong, you should bring any witnesses who can help you. You should also bring any papers you have such as: Pay stubs, Leases, Receipts, Bills, Other proof you have that you do not owe social services the amount that they want to recover.

At the hearing, you and your lawyer or other representative can ask questions of witnesses which we bring or which you bring to help your case.

LEGAL ASSISTANCE: If you think you need a lawyer to help you with this problem, you may be able to obtain a lawyer at no cost to you by contacting your local Legal Aid Society or other legal advocate group. For the names of other lawyers, check your Yellow Pages under "Lawyers".

ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file which we will give to the hearing officer at the fair hearing. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you think you may need to prepare for your fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of the front page of this notice or write us at the address printed at the top of the front page of this notice.

If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

INFORMATION: If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of the front page of this notice or write to us at the address printed at the top of the front page of this notice.

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Please check the installment method you wish to use and sign your agreement:					
<input type="checkbox"/> All at once <input type="checkbox"/> Monthly Payments Only <input type="checkbox"/> Part now, the rest in monthly payments					
I agree to repay by this method.					
Signature _____				Date _____	
<ul style="list-style-type: none"> • We will contact you to discuss the repayment method you have chosen and give you a written statement showing how much you will be repaying (and how long your payments will continue should you choose to repay through monthly payments). • If you fail to make payments as agreed, you will be contacted to discuss a new repayment schedule. 					
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