

NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001



BRIAN J. WING
Acting Commissioner

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 97 ADM-4

TO: Commissioners of
 Social Services

DIVISION: Temporary
 Assistance

DATE: February 28, 1997

SUBJECT: Clarifications of Various Food Stamp Welfare Reform
 Provisions

SUGGESTED DISTRIBUTION:	Food Stamp Directors Income Maintenance Directors Staff Development Coordinators Employment Coordinators
CONTACT PERSON:	Regional I, (518) 473-0332; Region II, (518) 474-9344; Region III, (518) 474-9307; Region IV, (518) 474-9300; Region V, (518) 473-1469; Region VI, (212) 383-1658 Employment Questions on Section 5 to DOL: Elise Melesky (518) 485-6320; John Healey (518) 485-6312; Gail Levine (212) 383-1659
ATTACHMENTS:	Attachment I - Listing of Attachments - available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
96 LCM-83		See Attachment IV	Personal Responsi- bility and Work Opportun- ity Recon- ciliation Act of 1996 P.L. 104-193		

DSS-296EL (REV. 9/89)

I. PURPOSE

The purpose of this directive is to provide local districts with new information, corrections and clarification of the food stamp welfare reform changes.

II. BACKGROUND

On August 22, 1996, President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193. In a number of previous releases, this Department provided local districts with information and instructions on the food stamp provisions of this law which had to be implemented by September 21, 1996. This directive provides new information, corrections and clarifications to the policy changes and instructions previously provided in the following:

- o GIS 96 TA/DC023 and TA/DC024, the October food stamp changes
- o GIS 96 TA/DC029, new vehicle resource limit
- o 96 LCM-83, most of the immediate food stamp changes
- o GIS 96 TA/DC037, the new homeless income deduction
- o GIS 96 TA/DC034, new employment disqualification procedures (prepared by the Department of Labor)

Additional information regarding eligibility of aliens will be given in a future release.

To assist districts in keeping track of all this information, this directive provides the new information and clarification in the same order and format as 96 LCM-83.

Regulatory citations have been added immediately below each policy section.

Information on the new employment sanctions is found in section 4 and new policy is found in section 5.

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III. PROGRAM IMPLICATIONS

This information will assist local districts in properly implementing the food stamp welfare reform provisions.

IV. REQUIRED ACTION

The implementation dates provided in 96 LCM-83 continue to apply.

Districts have requested clarification about implementation of new policies when a household reports a change during a certification period.

If the change requires a new ABEL budget, any of the budget-related FS policy changes described in 96 LCM-83 will automatically take effect when the new budget is stored in ABEL. This should be reflected in the food stamp allotment for the month following the month in which the change is reported.

However, districts are not obligated to perform a review of conditions of eligibility unrelated to the reported change until the next recertification. In these situations, it is correct to implement the budget-related changes and wait until recertification to implement any other changes.

1. INCOME AND DEDUCTIONS

1.1 Exclusion of Student Earned Income (Sec. 807 of PRWORA)

Regulatory Citation: 18 NYCRR 387.11(j)

Policy Clarification

The earned income of household members who are enrolled as elementary or high school students on at least a half-time basis can only be excluded through the end of the month in which the student turns 18. This applies to both new applicants and students who turn 18 during the certification period.

Required Action

For purposes of implementing this policy for cases that were active on September 21, 1996, the change must be made at the next recertification.

For purposes of the ongoing application of this policy, districts must establish a procedure to ensure that the student's income is excluded only through the month the student turns 18.

Suggested procedures include:

- o using a shorter certification period with an end date coinciding with the month the student turns 18, or
- o using the WMS Anticipated Future Action Code "105 - Individual Turning 18 Years" as a flag to identify a case which would need action during its certification period.

1.2 Count HEA and SHEA (Sec. 808 of PRWORA)

Regulatory Citation: 18 NYCRR 387.11(n)

Policy Clarification and Required Action:

This policy will be implemented automatically in upstate WMS by ABEL whenever a new PA budget is stored and a subsequent FS budget is calculated (SF-8). This policy will be implemented in NYC WMS by ABEL whenever a new budget is stored, including when an undercare action is taken during the course of a certification period. ABEL transmittals will address the effects of any mass rebudgets on this policy.

In many PA/FS cases, this change will be the largest determinant of a reduced benefit amount regardless of the initial reason for the reported budget change. It is suggested that districts include notice language and a regulatory citation indicating the HEA & SHEA change has occurred.

Suggested Notice Language

"Your food stamps have been changed in part because of a new federal law (PL 104-193) which says we must count the public assistance allowance given to you for energy costs. Before this change, we had not counted this income in determining the amount of your food stamps."

1.3 Count Vendor Payments for Heat/Utilities for HR/PG-ADC Cases (Sec. 808 of PRWORA)

Regulatory Citation: 18 NYCRR 387.11

Systems Impact

This policy will be implemented automatically in upstate WMS by ABEL whenever a new PA budget is stored and a subsequent FS budget is calculated (SF-8). This policy will be implemented in NYC WMS by ABEL whenever a new budget is stored, including when an undercare action is taken during the course of a certification period. ABEL transmittals will address the effects of any mass rebudgets on this policy.

In many PA/FS cases, this change will be the largest determinant of a reduced benefit amount regardless of the initial reason for the reported budget change. It is suggested that districts include notice language and a regulatory citation indicating the HEA & SHEA change has occurred.

Suggested Notice Language

"Your food stamps have been changed in part because of a new federal law (PL 104-193) which says we must now count in full the vendor payments given to your heat/utilities provider. Before this change, we had not counted this income in determining the amount of your food stamps."

1.4 No Earned Income Deduction for Late Reporting (Sec. 809 of PRWORA)

Regulatory Citation: 18 NYCRR 387.12(b)

Policy Clarification

When local districts establish a claim for an overissuance because of a failure to report earned income in a timely

manner, the 20% earned income deduction is not applied to the amount of the unreported income. However, the 20% deduction is still applied to the amount of reported earned income.

The definition of a failure to report in a timely manner remains as defined in FSSB - Section VI - B-1 and 2 (all).

1.5 Count Vendor Payment to Homeless Shelters (Sec. 811 of PRWORA)

Regulatory Citation: 18 NYCRR 387.11

Policy Clarification

This policy, which limits the income exemption applied to vendor payments made to providers of transitional housing for the homeless, does not apply to providers of residential programs for victims of domestic violence (commonly called domestic violence shelters). The entire amount of the vendor payments made to the domestic violence shelter (shelter types 22 and 37 upstate, 13 and 14 in NYC) is considered to be non-recurring emergency payments and is therefore exempt for food stamp income purposes.

This policy will be implemented automatically in upstate WMS by ABEL whenever a new PA budget is stored and a subsequent FS budget is calculated (SF-8). This policy will be implemented in NYC WMS by ABEL whenever a new budget is stored, including when an undercare action is taken during the course of a certification period. ABEL transmittals will address the effects of any mass rebudgets on this policy.

In many PA/FS cases, this change will have a large effect on the amount of FS benefits regardless of the initial reason for the reported budget change. It is suggested that districts include notice language and a regulatory citation indicating this change has occurred.

Suggested Notice Language

"Your food stamps have been changed in part because of a new federal law (PL 104-193) which says we must now count in full the vendor payments given to your temporary or transitional housing provider. Before this change, we had not counted all of this income in determining your food stamps."

2. MISCELLANEOUS PROVISIONS

2.1 No Separate Household for Children Under Age 22 Residing With Parents (Sec. 803 of PRWORA)

Regulatory Citation: 18 NYCRR 387.1

Policy Clarification

Individuals under 22 years of age who live with their parent(s) are required to be in the same FS household as their parent(s). This policy applies even when the individual's spouse and/or own children are also residing in the same household.

The policy is as follows:

- o Both the parent(s) and individual(s) under 22 are in receipt of FS

The policy is effective for both cases when recertification first occurs for either the parent or the individual under age 22.

Districts must establish procedures to discontinue the case containing the individual under 22 years of age and add the individual(s) to the parent's case. The spouse and/or child(ren) of the individual under 22 must be part of the same FS household. A procedure must be established to insure that the individual(s) whose case is closed is added to the parent's case in a timely manner. In those circumstances where the certification periods for the two cases do not coincide, a timely notice of adverse action must be issued for the case that is negatively impacted during the course of the certification period (suggested language is provided below).

- o Over/Under Payments

Failure to reunite children under 22 with their parent(s) for determination of eligibility and benefit level at time of recertification of the individual(s) under 22 or parent's case will result in an agency payment error. Restored benefits must be given if there is a break in participation before the individual(s) in the closed case is added to the parent's case. Any overpayments that occur as a result of reuniting the child(ren) with the parents as a single FS household must be recouped from the future benefits.

o Parents not receiving FS living with a child under 22 in receipt of FS

At the time of the child's recertification, the child's case must be closed and he/she must be advised that he/she may apply as a single household with his/her parent(s). CNS provides language for this type of closing.

o Children under 22 not in receipt of FS

At the time of recertification of the parent's household, the child under 22 (and the child's spouse and/or children) must be included in the FS household. Eligibility and benefit amounts are determined based on the income of all household members.

Examples

1. A girl under the age of 22 living with her own baby comes in for a recertification interview on January 15th. Their certification period ends on January 31st. She lives with her working mother who does not participate in the Food Stamp Program. To get food stamps, the mother of the girl under 22 must apply for the household of three and her income must be included in the eligibility determination. An Action Taken Notice denying her food stamp recertification request is issued to the girl.

Upon application, it is found that the entire household is not eligible. An action taken notice is issued and the application is denied.

2. A girl under the age of 22 living with her own baby comes in for a recertification interview for her PA/FS case on January 15th. Their certification period ends on January 31st. She lives with her mother who is in a separate NPA/FS case which is not yet due for recertification.

The PA/FS recertification application for the girl under 22 years of age and her baby is denied for food stamps. A separate determination must be made which includes the grandmother, the daughter under 22 and the granddaughter as a single FS household. The district must follow procedures to perform undercare maintenance on the mother's case to add the girl under 22 and the baby.

o Increases of Mother's Undercare Case

In those cases where the information is provided too late to increase the mother's NPA/FS case, a restored benefit must be issued back to February 1st, the first of the month following the end of the girl's PA/FS certification period.

o Decreases of Mother's Undercare Case

In those cases where the information is provided too late to do a timely notice to reduce the mother's NPA/FS benefits, the case must be reduced effective no later than March 1st, one month following the end of the girl's food stamp certification period. For those cases which are not reduced by March 1st, within one month following the end of the certification period of the girl's case, a claim must be established for recoupment of agency error back to March 1st.

3. A mother with a NPA/FS case comes in for a recertification interview on January 15th. Her certification period ends on January 31st. The district finds that she lives with her daughter who is under 22 and her employed son in-law. Her daughter and son in-law are on a separate case and have not yet ended their certification period. The district determines that the three person household is ineligible for FS.

The mother's application for recertification must be denied effective February 1st. The daughter's case must be closed effective:

- o the same month that the mother's certification period ended, with the discontinuance notice effective February 1st; or
- o the end of the following month, with the discontinuance notice effective March 1st, if the information is provided too late to do a timely discontinuance for the February benefit.

In any event, the daughter's FS case must be closed no later than one month beyond the end of the mother's certification period. If the daughter's case were to continue due to agency error, the case would be subject to payment error back to March 1st (one month beyond the end of the mother's certification).

Suggested Notice Language

NPA/FS closings and denials are supported by CNS (transaction types 03, 07 and 08). For PA/FS cases, suggested notice language follows:

- a) For discontinuance of a child's case:

"You are living with your parent(s).

Parents and their children who live together must get food stamps together unless they buy and prepare meals separately and the child is age 22 or older.

You are not age 22 or older.

If you apply with your parent(s) you may be eligible for food stamps."

- b) For changes in a parent's case:

"Your food stamps have been (discontinued/reduced/increased) because you are living with your child under age 22.

Parents and their children who live together must get food stamps together unless they buy and prepare meals separately and the child is age 22 or older."

2.2 Elimination of Homeless Category from Entitlement to Expedited Services (Sec 838 of PRWORA)

No additional information.

2.3 Homeless Definition (Sec. 805 of PRWORA)

Regulatory Citation: 18 NYCRR 387.1

Policy Clarification

This provision is the 90 day limit on an individual being considered homeless when residing in the home of another individual.

This provision only applies to individuals living in another person's home for no more than 90 continuous days, not to persons living in shelters.

When a person moves from the residence of one individual to the residence of another individual, the 90 day period starts again.

Required Action

Districts must establish procedures to track and control the 90 day period.

2.4 Pro-rate Benefits for Any Break in Certification (Sec. 827 of PRWORA)

Regulatory Citation: 18 NYCRR 387.14(a)(1)

Policy Clarification

Whenever there is a break in certification, the benefits for the first month of the new certification period must be pro-rated.

This provision does not apply to migrant and seasonal farm worker households. It also does not apply when the break in certification is due to agency error.

3. PROGRAM INTEGRITY AND PENALTIES

3.1 Doubling IPV Disqualification Periods (Sec. 813 of PRWORA)

Regulatory Citation: 18 NYCRR 359.9(c)

Policy Clarification

The increased disqualification periods described in 96 LCM-83 only apply to an individual who commits an IPV on or after September 21, 1996 provided that the individual was notified of the increased disqualification periods prior to committing the IPV.

96 LCM-83 made reference to the IPV Disqualification Notification forms to be modified as the "attachments to 93-ADM-8". The correct reference is to the IPV Notification forms attached to 96 ADM-5.

Required Action

96 LCM-83 included an attachment entitled, "Food Stamp Notice (IPV)". Districts were asked to post this notice in their client waiting rooms, and were encouraged to share the notice with clients.

Attachment II is the revised and renamed notice. This notice must be a part of each application or recertification package that is given or sent to applicants/recipients. Districts must reproduce this notice locally. Districts must also remove the older version of this notice provided in 96 LCM-83 and post this revised notice.

CNS has already updated the IPV closing and denial language on WMS.

Until the following forms and notices are updated, local districts must modify them by striking out the old IPV information and adding the new information in Attachment II, and substituting the new periods.

Forms

DSS-3151 (Rev. 3/96) "Food Stamp Change Report Form"

DSS-4148A (Rev. 1/95) "What You Should Know About Your Rights and Responsibilities"

Notices (Attachments to 96-ADM-5)

Notice of Consequences of Consenting to a Disqualification Consent Agreement (Attachment I)

Disqualification Consent Agreement (Attachment J)

Intentional Program Violation Disqualification Notice for Public Assistance and Food Stamp Programs (Attachment K)

Notice to Advise Individuals as a Court Record of Disqualification Provisions (Attachment L)

3.2 Disqualification for Trafficking in FS (Sec. 814 of PRWORA)

Regulatory Citation: 18 NYCRR 359.9(c)

No additional information.

3.3 Disqualification for (Receipt) of Multiple Benefits (Sec. 820 of PRWORA)

Regulatory Citation: 18 NYCRR 387.1

Policy Clarification

Any applicant, recipient or former recipient found by a Department administrative disqualification hearing (ADH) or convicted by a court, of having made a fraudulent statement or misrepresentation of identity or residence in order to receive multiple food stamp benefits simultaneously, is ineligible to participate in the Food Stamp Program for ten years. A finding by the Department includes a disqualification consent agreement (DCA) or waiver of an ADH, in addition to the above ADH decision.

3.4 Disqualification for Fleeing Felons (Sec. 821 of PRWORA)

Regulatory Citation: 18 NYCRR 387.1

Required Action

Any individual found to be fleeing to avoid prosecution, or custody or confinement after conviction for a felony (or high misdemeanor in New Jersey) is ineligible to participate in the Food Stamp Program. In addition, an individual found to be violating a condition of probation or parole is also ineligible to participate in the Food Stamp Program.

If a district suspects that an applicant or recipient may be a fleeing felon, or may be in violation of probation or parole, the district must make an appropriate and reasonable inquiry to confirm this suspicion. Districts may wish to consult with their respective legal counsel to determine how such inquiries should be made.

3.5 No Benefit Increase When Non-compliant with Other Means-tested Programs (Sec. 829 of PRWORA)

Regulatory Citation: 18 NYCRR 387.10(b)(5) and 387.11(a)

This policy area is still being clarified and will be addressed in a separate release.

3.6 Disclosure of Information to Law Enforcement Officials (Sec. 837 of PRWORA)

Regulatory Citation: 18 NYCRR 387.2(j)

No additional information.

3.7 Collection of Overissuances (Sec. 844 of PRWORA)

Regulatory Citation: 18 NYCRR 387.19(a)(2) and (5)

Policy Clarification

Agency Errors

This policy also applies to Agency Errors (AE) established before September 21, 1996. If there is an active case and a claim was established and no repayment is currently being made, the district must re-initiate collection efforts for this Agency Error. However, this policy does not nullify repayment agreements negotiated prior to September 21, 1996.

Other Issues

For active cases, client offers of repayment by cash or food stamps may be accepted if such an offer is in place of, and at least equal to the value of, an allotment reduction.

For cases closed or denied due to an IPV, requests for repayment are generated and sent by CNS. See the following section for Systems information.

The IPV Disqualification Notice to be modified is Attachment K to 96 ADM-5, not Attachment V to 93 ADM-8 as stated in 96 LCM-83.

Systems Information

For Food Stamp IPV case closings/recert-closings and Food Stamp application denials, a Notice of Over-issuance and Repayment Agreement may be included with the CNS notice only for the following FS Individual IPV reason codes: WF1-3, NF1-2, N90.

This is accomplished by entering "Y" in the "IPV NOTICE OF OVER-ISSUANCE NEEDED" field on screen WCN110 (the screen presented when one of the above reason codes is entered).

At the bottom of screen WCN111 (the screen presented when "Y" is entered in the over-issuance notice field), workers may select one of three "REPAYMENT AGREEMENT" choices most appropriate to the case circumstances.

4. Employment Requirements

4.1 Sanctions for Non-compliance with Employment Requirements
(Sec. 815 of PRWORA)

Regulatory Citation: 18 NYCRR 387.13

Policy Changes

Durational Sanctions

Applicants and participants who fail to comply without good cause with the requirements of work registration or work requirements or who voluntarily quit or reduce their work hours (see below) are subject to the following sanctions:

- o For the first instance of failure to comply, a period of two months and until compliance;

- o For the second instance of failure to comply within a three year period beginning with the effective date of the first sanction, a period of four months and until compliance;
- o For the third and all subsequent instances of failure to comply within a three year period beginning with the effective date of the previous sanction, a period of six months and until compliance.

A sanctioned individual cannot participate in the Food Stamp Program prior to the end of the specific sanction period.

These durational sanctions apply to individuals who fail to comply without good cause on or after September 22, 1996. All initial sanctions on or after September 22, 1996 will be considered a first sanction, regardless of the number of times an individual has failed to comply prior to September 22, 1996.

Who May Be Sanctioned

Only the individual who fails to comply without good cause with work registration or work requirements or who voluntarily quits or reduces his or her work hours is sanctioned, regardless of whether he or she is head of household or a household member. This eliminates household level employment sanctions. It is no longer necessary to designate head of household for employment purposes.

Voluntary Quit and Reduction in Hours Provisions

Applicants and participants who quit their job or reduce their hours of work to less than a total of 30 hours per week without good cause are subject to the sanctions above.

Required Action

Ten day notice language must be changed on PA/FS and FS employment noncompliance notices to reflect this new policy. Until new notices are developed, districts must strike food stamp sanction duration language on the current forms and provide Attachment III as part of the application and recertification packages. Districts must post this notice.

Systems Impact

Districts will be notified when CNS supports these changes.

Employment Subsystem

Food Stamp sanctions for periods of two, four and six months may be recorded on the Employment Subsystem using the following Employment Status Codes:

<u>Time Period</u>	<u>Employment Status Code</u>
Two months	25 - FS Sanction - 2 months
Four months	42 - Sanction - 120 days
Six months	16 - Sanction - 180 days

5. New Provisions5.1 New Homeless Income Deduction (Sec. 809 of PRWORA)Policy Change

Effective October 1, 1996, the Homeless Standard Shelter Deduction was replaced by the Homeless Income Deduction. Prior to this change, individuals meeting the homeless definition were entitled to a standard deduction of \$143 as part of their estimated shelter cost when their shelter expenses could not be documented.

Required Action

Effective October 1, 1996, households not receiving free shelter will be allowed a homeless income deduction. This homeless deduction is a \$143 deduction from net income applied after the standard and child support deductions, but before the medical deduction.

Systems Impact

On Upstate WMS, effective October 1, 1996, for PA/FS and NPA/FS cases coded as shelter type "23-Undomiciled", ABEL will prohibit entry of a shelter amount on FS budgets with effective FROM Dates equal to or greater than September 21, 1996. An income deduction of \$143 will now be included in the benefit calculation and will be displayed on the FS output screen in the field currently labelled "EXC SHELTY".

NYC WMS will be modified to apply the new \$143 Homeless Shelter Deduction for budgets with effective dates of 12/A/96 or later. Budgets with effective dates of 11/B/96 or earlier will apply the \$143 as the Homeless Shelter Allowance. An ABEL transmittal will advise workers when this change will be migrated into the Production environment.

Any cases which were processed with bottom-line budgeting Upstate or off-line budgeting in NYC should now have a system calculated budget stored to support the recurring benefits to this group.

5.2 Reinstatement of Excess Shelter Cap (Sec. 809 of PRWORA)

Policy Change

This provision re-establishes the excess shelter cap which was to be removed by the Mickey Leland legislation. Currently the cap is set at \$247. Adjustments to the amount are scheduled to occur in January, 1997, October, 1998, and October, 2000.

Systems Impact


Effective October 15, 1996, ABEL reinstated the current Excess Shelter Cap amount of \$247 in its calculations. A new Excess Shelter Cap of \$250 became effective January 1, 1997. ABEL will use this new Cap as part of its JAN Mass Rebudgeting to rebudget and reauthorize all cases affected by the new excess shelter cap.

IV. ADDITIONAL INFORMATION

These policy changes will be incorporated into the Food Stamp Source Book.

V. EFFECTIVE DATE

This administrative directive is effective March 1, 1997 retroactive to September 21, 1996.


Patricia A. Stevers
Deputy Commissioner
Division of Temporary Assistance