



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: 98 ADM-10

TO: Commissioners of
Social Services

DIVISION: Temporary
Assistance

DATE: June 4, 1998

SUBJECT: PA Budgeting: Changes to the Earned Income Disregard and the
Poverty Level Income Test

**SUGGESTED
DISTRIBUTION:**

Public Assistance Staff
Medical Assistance Staff
Food Stamp Staff
CAP Coordinators
Directors of Services
Staff Development Coordinators

**CONTACT
PERSON:**

Call 1-800-343-8859 and ask for the following:
Temporary Assistance: Team 1, 3-0332; Team 2
4-9344, Team 3, 4-9307; Team 4, 4-9300; Team 5
3-1469; Team 6, 212-383-1658.
Medicaid: Sharon Burgess, (518)-473-5536, or
Priscilla Smith, (518)-473-5532

ATTACHMENTS:

Attachment A: Federal Poverty Guidelines
Attachment B: Notice of Intent (NYC)
Attachment C: Notice of Intent (Upstate)
(Attachments available on line)

FILING REFERENCES

Previous ADMs/INPs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 ADM-23		352.18 352.19 352.20 352.3(a)- (d) 352.8(b) (1)	131-a(8) (a) (iii)		

I. Purpose

This directive advises social services districts (SSDs) of a change in the percentage of earned income which is disregarded during the public assistance budgeting process. Annually on June 1, as required by Social Service Law Section 131-a (8)(a)(iii), this percentage must be adjusted up or down to reflect the change in the most recently issued poverty guidelines of the United States Bureau of the Census (Attachment A). Additionally, this change in the earned income disregard requires that thresholds of the Poverty Level Income Test be updated.

II. Background

The Welfare Reform Act of 1997 (WRA) required districts to cease employing the budgeting methodology which had previously been referred to as $\$30$ and $1/3$, and begin using a flat percentage earned income disregard. This new earned income disregard is applied to the difference between the eligible applicant's/recipient's (A/R) gross income and the $\$90$ work expense disregard. The WRA requires that on an annual basis, beginning on June 1, 1998, the rate of the earned income disregard be adjusted to reflect the most recently released federal poverty guidelines.

The WRA also imposes a Poverty Level Income Test which requires that a household's total gross earned and unearned income cannot exceed the federally established poverty level by family size. This test applies only to persons living in situations subject to the maximum shelter allowances under Department Regulations 18 NYCRR 352.3(a)-(d), or 352.8(b)(1). An update to the threshold is necessary on a yearly basis in order to prevent persons from becoming ineligible for assistance because their gross earned and unearned income is above federal poverty guidelines.

III. Program Implications

The amount of the new earned income disregard amount increase is from 42% to 45%. SSDs will be required to begin budgeting the new earned income disregard for budgets with an effective June 1, 1998 date or later. The ABEL system will provide support for this change effective April 13, 1998.

The change in the earned income disregard is applicable to all Family Assistance (FA) households. In addition, Safety Net Assistance (SNA) households, which include a dependent child applying for or receiving SNA or SSI, are also eligible to receive the earned income disregard.

Effective June 1, 1998, gross earned and unearned income cannot exceed the 1998 monthly poverty level. This provision continues to only apply to those persons living in situations subject to normal Departmental shelter schedules. It does not apply to individuals residing temporarily in hotel/motels, domestic violence shelters, AIDS housing, congregate care facilities, etc. This test is fully supported by ABEL.

The change in the Poverty Income Level Test applies to all public assistance households residing in appropriate shelter situations.

IV. Required Actions

A. Applicants

An applicant's eligibility for public assistance must continue to be determined without application of the 45% earned income disregard unless not more than four months have elapsed since such person was off assistance. If eligible without the earned income disregard, the disregard is granted in calculating the net earned income.

The poverty level test will automatically be applied by ABEL to all applicants residing in appropriate shelter situations.

B. Recipients

A mass re-budgeting of all cases with earned income currently receiving the earned income disregard and an authorization "to" date 6/1 or greater, will take place prior to June 1 on an annual basis. A separate notice for New York City (Attachment B) and a separate notice for Upstate (Attachment C) have been prepared for this effort. Recipients with an authorization "to" date less than 6/1 who are eligible for assistance, will need to receive a notice which incorporates the information contained in the mass re-budgeting notice.

C. Examples

Example #1: NYC Eligible Recipient Family

A three person household is residing in a private apartment with heat included in the rent and has gross earnings of \$1,000 monthly.

\$1,000.00	Gross Earnings	\$577.00	standard of need
- (\$90.00)	Work Expense Disregard	-(500.50)	net earned income
910.00	(remainder)	76.00	net grant (rounded)
- (409.50)	(45% of remainder)	\$1000.00	gross earned income
500.50	net earned income	\$1076.00	grant+gross earnings

The family is eligible for a \$76.00 grant. The 1998 monthly poverty guideline for a family of three is \$1137.50. The family passes the poverty level income test and remains eligible for assistance.

Example #2: Ulster County Ineligible due to Poverty Level Income Test

A three person household is applying for public assistance and is residing in a private apartment with heat included in the rent and has gross earnings of \$1,150.00 monthly.

\$1,150.00 Gross Earnings
-1,137.50 Poverty Income Limit
\$12.50 GROSS SURPLUS

The family is ineligible for public assistance because they have failed the poverty level test by \$12.50.

D. Food Stamps Implications

An increase in available public assistance income due to an increase in the public assistance earned income disregard must be counted when budgeting for Food Stamps. Public Assistance/Food Stamp cases that are mass re-budgeted will have their Food Stamp benefits automatically adjusted. Food Stamp households are still entitled to a 20% earned income disregard from their gross earned income.

E. Medicaid Implications

The change in the amount of the earned income disregard from 42% to 45% affects Medicaid budgets with an effective From Date of June 1, 1998 or later. The Poverty Level Income Test will be based on the actual poverty levels published in the Federal Register in February effective June 1, 1998. The actual poverty line replaces the estimated poverty line which was effective January 1, 1998 through May 31, 1998. The MBL system provides support for both periods; changes are supported by MBL effective May 4, 1998.

Some cases may have changed from Medically Needy eligibility to LIF eligibility due to the increase in the Earned Income Disregard. These cases have the potential to become eligible for TMA and the four month child support extension in subsequent months if otherwise eligible. A report will be provided for you of those cases which may potentially need re-budgeting. The report will be accompanied by a MBL Transmittal which will provide information on the appropriate action to be taken.

F. Notice Requirements

Attachments B and C to this directive are copies of the increase letters. Spanish versions of these notices are available upon request.

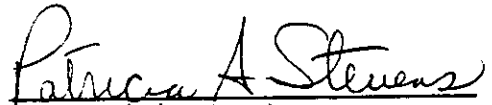
G. Systems Implications

The new 45% Earned Income Disregard and the new poverty levels for the Poverty Income Level Test were migrated Upstate as of April 13th, for budgets with Budget From Dates of June 1, 1998 or later. A Mass Re-budgeting/Reauthorization, on Monday, April 27th, automatically re-budgeted public assistance cases with earned income and a 42% Earned Income Disregard. Cases listed as exceptions will need to be re-

budgeted by the SSD. See ABEL Transmittal 98-1 for additional information regarding the MRB/A.

V. Effective Date

Effective June 1, 1998.

A handwritten signature in cursive script that reads "Patricia A. Stevens". The signature is written in dark ink and is positioned above a horizontal line.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary
Assistance

1998 Federal Poverty Guidelines

<u>Size of Family Unit</u>	<u>Poverty Guideline</u>
1	\$8,050
2	10,850
3	13,650
4	16,450
5	19,250
6	22,050
7	24,850
8	27,650

For family units with more than 8 members, add **\$2,800** for each additional member.

NOTICE OF INTENT TO CHANGE BENEFITS
PUBLIC ASSISTANCE AND FOOD STAMPS, 6/98
EARNED INCOME DISREGARD INCREASE - NYC

Case Number:
Loc. Off./Unit/Worker: / /

General Telephone No. for
Questions or Help:

Notice Date: May 21, 1998

LA NOTIFICACION ADJUNTA EN ESPAÑOL LE INDICARA INFORMACION QUE NECESITARA PARA AYUDARLE A COMPRENDER PORQUE HAN CAMBIADO SUS BENEFICIOS.

This Notice is to tell you that this agency intends to CHANGE your benefits as follows:

PUBLIC ASSISTANCE: Beginning June 1, 1998 your public assistance benefit will go:

FROM _____ TO _____.

The benefit amount is the amount before recoupments or restrictions are taken.

Recoupment: If you have a recoupment in place, the same recoupment percentage will continue to be taken.

Restriction: An example of a restriction is an amount taken from your benefit and paid directly to your landlord or to the electric company.

This is because there is a change happening to the way we count earned income when we decide how much public assistance you can get.

This is because our records show that someone in your household has earned income which is counted against your public assistance needs. Under State Law (Social Services Law 131-a(8)(a)(iii)), the percentage of income which may be disregarded from your earned income must be adjusted annually beginning in June 1998. The new amount of the earned income disregard reflects the changes in the most recently issued poverty guidelines issued by the United States Bureau of the Census. Under the law, effective June 1, 1998, we cannot count the first \$90 in earned income you have and 45% of the remainder. For example, if you have \$400 in earned income we could not count \$229.50.(the first \$90 plus \$139.50 which is 45% of the remainder).

FOOD STAMPS: Beginning June 1, 1998, your FOOD STAMPS will go: FROM _____ TO _____.

This is because of the change to your public assistance benefits. The change in the earned income disregard may cause a change in your Food Stamps benefits. For every \$3 increase to your Public Assistance benefits due to the new earned income disregard, your Food Stamps may decrease by \$1. The Regulation which allows us to do this is 18 NYCRR 387.12.

MEDICAL ASSISTANCE: Your Medical Assistance benefits will continue unchanged.
The Regulation which allows us to do this is 18 NYCRR 360-3.3.

YOU HAVE THE RIGHT TO APPEAL THIS DECISION. READ BELOW ON HOW TO APPEAL THIS DECISION.

RIGHT TO A CONFERENCE: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made the wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the top of this notice or by sending a written request to us at the address listed at the top of this notice. This number is used only for asking for a conference. It is not the way you request a fair hearing. If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described on the back of this notice. A request for a conference alone will not result in continuation of benefits. Read the back of this notice for fair hearing information.

FAIR HEARING RIGHTS

RIGHT TO A FAIR HEARING: If you believe that the action(s) we are taking are wrong, you may request a State fair hearing by:

- (1) Telephoning: (212) 417-6550 (please have this notice with you when you call) OR
- (2) FAX: Send this page to (518) 473-6735.
- (3) Walk-In: Bring a copy of this page to NYS Office of Temporary and Disability Assistance at 80 Centre Street, 3rd Floor, New York, NY.
- (4) Writing: By sending a copy of this page, completed, to the Office of Administrative Hearings (Dept. 1), New York State Office of Temporary and Disability Assistance, PO Box 1930, Albany, NY 12201
Please keep a copy for yourself.

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

IS Center: _____

Signature of Client: _____ Date: _____

Name (print): _____ Case Number: _____

Your Address: _____ Telephone Number: _____

You have the following number of days from the date of this notice to request a fair hearing:

Public Assistance - 60 Days

Food Stamps - 90 Days

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have the right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, paystubs, receipts, medical bills, heating bills, medical verification, letters, etc. that may be helpful in presenting your case.

Note: If you request a hearing, a hearing will be scheduled: however, if at the hearing the hearing officer determines that you are not complaining about an incorrect computation of your public assistance grant, the hearing officer may determine that you did not have a right to a hearing on your public assistance grant.

CONTINUING YOUR BENEFITS: If you request a fair hearing before the effective date stated in this notice you will continue to receive your benefits unchanged until the fair hearing decision is issued unless at the hearing the hearing officer determines that the only thing you are complaining about is the change in State Law or Regulation. If the hearing officer determines at the hearing that the only thing you are complaining about is the change in State Law or Regulation, the action specified in this notice will take effect immediately.

If you lose the fair hearing, you will owe any public assistance and food stamps that you should not have received. Check the box(es) below if you wish to indicate that you do not want your aid continued and send this page along with your hearing request. If you do check the box(es), the action(s) described will be taken on the effective date as identified under the appropriate program.

I do not want the following benefits to continue unchanged until the fair hearing decision is issued:

- Public Assistance
- Food Stamps

LEGAL ASSISTANCE: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers".

ACCESS TO RECORDS: 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 send you 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 send you 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 telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice.

If you want copies of documents from your case file, you should ask for them ahead of time. Usually, they will be sent to you within three working days of when you asked for them. If your hearing is within three working days of when you ask for them, your case file documents may be given to you at your hearing.

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 page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.

Notice Date: May 21, 1998
Effective Date: June 1, 1998

NYC/EID ___% Change

Notice of Intent to Increase
Your Public Assistance and
Decrease Your Food Stamps, 6/98
Earned Income Disregard Increase (ROS)

Case Number:
Loc. Off./Unit/Worker: / /

General Telephone No. for
Questions or Help:

PUBLIC ASSISTANCE: This Notice is to tell you that this agency intends to INCREASE your benefits effective June 1, 1998 due to a change in the amount of the earned income disregard.

This is because our records show that someone in your household has earned income which is counted against your public assistance needs. Under State Law (Social Services Law 131-a(8)(a)(iii)), the percentage of income which may be disregarded from your earned income must be adjusted annually beginning in June 1998. The new amount of the earned income disregard reflects the changes in the most recently issued poverty guidelines issued by the United States Bureau of the Census. Under the law, effective June 1, 1998, we cannot count the first \$90 in earned income you have and 45% of the remainder. For example, if you have \$400 in earned income we could not count \$229.50 (the first \$90 plus \$139.50 which is 45% of the remainder).

Recoupment - If you have been notified previously that a recoupment is being taken against your grant, the recoupment will continue at the same percentage rate.

The law which allows us to do this is Social Services Law 131-a(8)(a)(iii).

FOOD STAMPS: We count your public assistance grant against your food stamps. Your food stamp benefits may decrease because your public assistance grant is increasing. For every \$3 your public assistance grant increases, your Food Stamps may decrease by about \$1. For example, if your public assistance goes up \$30, your food stamps may go down about \$10.

The Regulation which allows us to do this is 18 NYCRR 387.12.

MEDICAL ASSISTANCE: Your Medical Assistance benefits will continue unchanged.

The Regulation which allows us to do this is 18 NYCRR 360-3.3.

YOU HAVE THE RIGHT TO APPEAL THIS DECISION. READ BELOW ON HOW TO APPEAL THIS DECISION.

RIGHT TO A CONFERENCE: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made the wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the top of this notice or by sending a written request to us at the address listed at the top of this notice. This number is used only for asking for a conference. It is not the way you request a fair hearing. If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described below. A request for a conference alone will not result in continuation of benefits. Read below for fair hearing information.

RIGHT TO A FAIR HEARING: If you believe that the above action(s) are wrong, you may request a State fair hearing by:

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

OR

2. Writing: By sending 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.

Notice of Intent to Increase
Your Public Assistance and
Decrease Your Food Stamps, 6/98
Earned Income Disregard Increase (ROS)

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

Name of client (PRINT) _____

Signature of Client _____ Date _____

Client Address _____

Client Phone Number _____ County _____

Case Number _____

For Public Assistance, you have 60 days from the date your June 1998 Public Assistance benefits become available to request a fair hearing. For Food Stamps, you have 90 days from the date your June 1998 Food Stamp benefits become available to request a fair hearing.

The date your June 1998 benefits become available is:

- o The date you can access your public assistance and food stamp benefits with your plastic CBIC card.

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, paystubs, receipts, medical bills, heating bills, medical verification, letters, etc. that may be helpful in presenting your case.

If you request a hearing, a hearing will be scheduled; however, if at the hearing the hearing officer determines that you are not complaining about an incorrect computation of your public assistance grant, the hearing officer may determine that you did not have a right to a hearing on your public assistance grant.

CONTINUING YOUR BENEFITS: If you request a fair hearing within 10 days after your June 1998 food stamp benefits become available, your food stamps will be reinstated to the amount you received before the change until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any food stamps that you should not have received. We are required by Federal Law to recover any food stamp overpayments. We must make a claim against you for any food stamps you receive that you were not entitled to, which may be collected by reduction of future food stamp allotments, lump sum installment payments or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your food stamps. If you check the box below, your benefit will not be reinstated to the amount it was before the June 1998 food stamp issuance while you are waiting for your fair hearing.

If at the hearing, the hearing officer determines that you are not complaining about an incorrect computation of your benefits or that there has been a misapplication or misinterpretation of Federal Law or regulations, the hearing officer may determine that you were not entitled to have your food stamp benefits continue unchanged until the fair hearing decision is issued, and order that the reduction take effect immediately.

I do not want my benefits reinstated and continued unchanged until the hearing decision is issued.

LEGAL ASSISTANCE: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

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 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 page 1 of this notice or write us at the address printed at the top of page 1 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 page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.